3092.

SUPREME COURT OF THE UNITED STATES.

No. 185.

CHARLES BALLANEE, PLAINTIFF IN ERROR,

VS.

ROBERT FORSYTH, LUCIEN DUMAIN AND ANTHONY R. BOVIS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF ILLINOIS.

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3193.

ROBERT FORSYTH and
LUCIEN DUMAIN
vs.
STINSON A. GOUDY.

Pleas in the Circuit Court of the United States of America for the District of Illinois, held at the City of Springfield in the District aforesaid, before the Hon. Nathaniel Pope, Judge of the District Court of the United States for the District of Illinois. And in the absence, &c., pro tempore of the Hon. John McLean, one of the Justices of the Supreme Court of the United States, sole Judge of said Circuit Court, on Thursday, the 21st day of June, in the year of our Lord one thousand eight hundred and forty-nine, and of our independence the year.

District of Illinois, sct.

Robert Forsyth and Lucien Dumain, plaintiffs, put in their place H. O. Merriman, their attorney, against Stinson A. Goudy, defendant, in a plea of ejectment.

District of Illinois, sct.

Stinson A. Goudy, defendant, puts in his place Charles Ballanee, his attorney, at the suit of the plaintiffs in the plea aforesaid.

District of Illinois, sct.

Be it remembered, that on the sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-seven, the said plaintiffs by their said attorney came into open court and filed their declaration, with a notice thereto attached, directed to said defendant. And also an affidavit of a due service of a copy of said declaration and notice upon said defendant, which are as follows, to wit:

In the Circuit Court of the United States, within and for the District of Illinois, of the December Term, A. D. 1847.

UNITED STATES OF AMERICA,
District and State of Illinois, ss.

Robert Forsyth and Lucien Dumain, who are citizens of the State of Missouri, plaintiffs in this suit, by H. O. Merriman, their attorney, complains of Stinson A. Goudy, citizen of the State of Illinois, defendant in this suit:

For that whereas heretofore, to wit: on the first day of August,

A. D. 1847, said plaintiffs were possessed of an undivided two-thirds part of the following described land, to wit: "Lot numbered sixty-five, in the village of Peoria, in the State of Illinois, being part of the southeast fractional quarter of section numbered nine, in township numbered eight, north of range numbered eight, east of the fourth principal meridian, according to the survey approved 1st September, A. D. 1840, by the surveyor of public lands in the States of Illinois and Missouri, made in pursuance of the acts of Congress of the United States, approved March 3d, 1823, entitled 'An act to confirm certain claims to lots in the Village of Peoria in the State of Illinois.'" And being so possessed thereof, said defendant afterwards, to wit: on the first day of September, A. D. 1847, entered into such premises, and that he unlawfully withholds from said plaintiffs the possession thereof.

And said plaintiffs further aver, that they claim title in fee simple to said premises, and that said plaintiffs are citizens and inhabitants of the State of Missouri, and that said defendants are citizens and inhabitants of the State of Illinois, and that said premises exceed in value the sum of five hundred dollars. Wherefore said plaintiffs say they are injured, and have sustained damages to a large amount, to wit: one thousand dollars, and therefore they sue, &c.

H. O. MERRIMAN,
Att'y for Pl'ffs.

To STINSON A. GOUDY:—

Take notice, that, on the 10th day of the next term of the Circuit Court of the United States, within and for the district of Illinois, to be holden at Springfield, in the said State of Illinois, on the first Monday of December next, the above declaration will be filed in said court; that upon filing the same a rule will be entered requiring you to plead to such declaration within twenty days after the entry of such rule. And that if you neglect to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in such declaration.

Notice.

Yours, &c.,
H. O. MERRIMAN.

STATE OF ILLINOIS, *Peoria County, ss.*

Clark Cleaveland, being first duly sworn, deposes and says that on the first day of December, A. D. 1847, he served upon Stinson A. Goudy, the above-named defendant, who is in the occupancy of the premises in the said declaration described, the above declaration and notice by delivering to him personally a copy of the same.

CLARK CLEAVELAND.

Subscribed and sworn to before me, Jacob Gale, Clerk of the Circuit Court of said County. Witness my hand and seal of said court, this 11th day of December, 1847.

[SEAL.] JACOB GALE, *Clerk.*

And thereupon the following order was entered, to wit:

ROBERT FORSYTH *et al.* *vs.* STINSON A. GOUDY. } Ejectment.

This day came the plaintiffs by their attorney and file their declaration, and notice in writing thereto subjoined: and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered that said defendant plead thereto in twenty days or that his default be entered.

Substitution of Menard's bond for Merriman's.

This day, to wit: the 27th day of December, A. D. 1847, came in open court, the said plaintiffs by their said attorney, and presented a bond for costs in this cause, signed by Peter Menard, and on his motion it is ordered that said bond be filed and substituted in the place of the bond now on file, signed by H. O. Merriman.

This day, to wit: the 4th day of January, A. D. 1848, came the said defendant by his said attorney and filed a motion as follows, viz:—

UNITED STATES OF AMERICA,
District of Illinois:

In the Circuit Court of December Term, A. D. 1847.

STINSON A. GOUDY *ads.* ROBERT FORSYTH, LUCIEN DUMAIN. } Ejectment.

Motion to dismiss for want of a bond such as the law requires.

Said defendant, G. Ballanee, his attorney, came and moved the court here to dismiss the above cause for the reason that it is shown by said declaration that said plaintiffs are not residents of the State of Illinois, and yet they have given no sufficient bond for costs.

G. BALLANEE,
For Defendant.

Order to plead.

This day, to wit, the 15th day of June, A. D. 1848, came the said plaintiffs by their said attorney, and on his motion: It is ordered that defendant plead herein in twenty days, or that his default be entered. It is further ordered that this cause be continued until the next December term of this court.

Order for depositions.

This day, to wit, the 16th day of June, A. D. 1848: It was ordered, on motion of plaintiffs by their attorney, that a commission issue in this case to take depositions.

Leave to issue depositions.

This day, to wit, the 11th day of December, A. D. 1848: On motion of defendant by his attorney, leave was given him to open depositions herein, which is accordingly done.

This day, to wit, the same day and year last aforesaid, came the said defendant by his said attorney, and filed his plea herein, which is as follows, to wit:—

In the Circuit Court of the United States of America for the District of Illinois, December Term, A. D. 1847.

STINSON A. GOUDY *ads.* ROBERT FORSYTH, LUCIEN DUMAIN. } In Ejectment.

Plea.

The said defendant, Stinson A. Goudy, by Ballanee, his attorney, comes and defends the force and injury, when and where, &c., and for a plea says that he is not guilty of the trespass and ejectment in the plaintiff's said declaration in manner and form as the said plaintiffs have above in his said declaration declared against him, and of this he puts himself upon the country.

C. BALLANEE,
Att'y for Deft.

Trial.

This day, to wit, the 5th day of January, A. D. 1849, came the said parties by their attorneys, and issue having been joined thereupon, a jury is called, to wit: John S. Roberts, A. C. Dixon, E. S. Phelps, M. C. Bellmire, A. J. Kane, Luther Woodward, Philo Beers, Montgomery Sweeny, Henry Van Hoff, R. B. Slocumb, William Slocumb, William Lowry, and Nathaniel Hay, who being duly elected, tried, and sworn, well and truly to try the issue joined, upon their oaths, say:

Verdict.

"We, the jury, find the defendant guilty of wrongfully withholding from the plaintiffs the possession of the following described premises, being part of the premises mentioned in plaintiffs' declaration, viz: Commencing at the north-easterly corner of lot number sixty-five, on the plat of the survey thereof, approved September the first, A. D. 1840, by the Surveyor of Public Lands for the States of Illinois and Missouri, which survey was made in pursuance of an act of Congress, approved March 3d, 1823, entitled 'An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois,' running thence along the front line of said lot in a south-westerly direction eighty-five feet and six and two-third inches to the southerly corner of said lot, thence on the south-westerly line of said lot, and in a north-westerly direction

forty-six feet, to what is now known and called Water Street; thence north-eastwardly along the south-east edge of said Water Street, across said lot, number sixty-five, to the north-eastwardly line of said lot, thence to the place of beginning—being that part of the premises described in said declaration, which is covered by what is now known as lots number one and two (1 & 2) in Bigelow and Underhill's addition to the town of Peoria, and situated in the east fractional quarter of section nine (9) in township eight (8), north in range number eight (8), east of the fourth principal meridian in the State of Illinois." And that the plaintiffs were at the time of the commencement of this suit the owner in fee simple of the above-described premises, and we assess their damages at one cent.

Judgment.

It is therefore considered and regarded by the court that the plaintiffs recover of and from the said defendant the possession of the above-described premises aforesaid. It is further ordered and adjudged, that the said plaintiffs recover of and from the said defendant their damages of one cent, according to the verdict of the jury, and that they have a writ of possession for said above-described premises, and an execution for costs.

Motion for a new trial.

Whereupon the said defendant, by his attorney, comes and moves the court for a new trial herein, and files his reason therefor.

Overruled.

This day, to wit: the same day and year aforesaid, came again the said parties by their said attorney, and defendant's motion for a new trial herein for cause having been argued: It is considered by the court that said motion be overruled.

New trial under the statute taken.

Whereupon, on motion of defendant, a new trial under the statute is allowed on the payment of costs by the first day of March next.

This day, to wit: the day and year last aforesaid, came again the said defendant, by his attorney, and filed his motion as follows, viz:

December Term, A. D. 1848.

UNITED STATES,
District of Illinois:

FORSYTH & DUMAIN
vs.
STINSON A. GOUDY. } In Ejectment.

Said defendant, by his attorney, comes and moves the court to set aside the verdict herein, and grant a new trial to defendant, and for cause shows unto the court the following, to wit:

1st. The verdict of said jury is against the evidence in the cause.

2. The court erred in deciding that plaintiffs had title to the land

in dispute, without requiring evidence of the identity of the ground in controversy with the ground granted.

3d. The court erred in deciding in favor of said plaintiffs without any proof that the plaintiffs' patentee was one of the persons to whom the grant by the act of 1823 (if a grant it is) was made.

4th. The court erred in deciding that the legal title did not pass by the patent to Bogardus.

WILLIAMS, POWELL & BALLANEE.

This day, to wit: the 18th day of January, A. D. 1849, came the said plaintiffs by their said attorney, in open court, and, on his motion, leave is given them to amend their declaration herein; and that said amended declaration be filed by the first day of March next.

This day, to wit: the 24th day of April, in the year last aforesaid, came the said plaintiffs and filed an amended declaration, as follows, to wit:

Amended declaration.

In the Circuit Court of the United States in and for the District of Illinois, of the June term, in the year of our Lord one thousand eight hundred and forty-nine.

UNITED STATES OF AMERICA.
District and State of Illinois.

Robert Forsyth, Lucien Dumain and Antoine R. Bovis, plaintiffs in this suit, citizens of the State of Missouri, one of the United States of America, complain of Charles Ballanee, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea, wherefore he, the said defendant, with force and arms, &c., entered into the following described premises. For that heretofore, to wit: on the first day of September, in the year of our Lord one thousand eight hundred and forty-seven, the said plaintiffs were possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot; surveyed and designated as covered by claim number forty-seven, in the south-east fractional quarter of fractional section nine, in township eight, north of range eight, east of the fourth principal meridian Illinois, according to the survey approved 1st September, 1840, by the Surveyor of the Public Lands, in the States of Illinois and Missouri, and conveyed by letters patent of the United States, on the twenty-seventh day of March, A. D. 1847, to the legal representatives of Louis Le Boushier. Also the lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven hundredths of a square foot, surveyed and designated as covered by claims number sixty-five and sixty-eight, in the south-east fractional

quarter of fractional section nine, in township eight, north of range eight, east of the fourth principal meridian, according to the survey approved 1st September, 1840, by the Surveyor of the Public Lands in the States of Illinois and Missouri, and conveyed by letters patent of the United States, dated December 16, 1845, to Antoine Bourbonae or his legal representatives.

And being so possessed thereof, the said defendant afterwards, to wit: on the first day of September in the year of our Lord one thousand eight hundred and forty-seven, entered into such premises, and that he unlawfully withholds from the plaintiffs the possession thereof; and said plaintiffs aver that they claim title to said premises in fee, and that the said plaintiffs are citizens and inhabitants of the State of Missouri in the United States of America, and that he, the said defendant, is a citizen and inhabitant of the State of Illinois in the United States of America. And the said plaintiffs further aver that the afore-described premises being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars. Wherefore the said plaintiffs say that they are injured, and have sustained damages to a large amount, to wit: one thousand dollars, and therefore they sue, &c.

H. O. MERRIMAN,
Attorney for Plaintiffs.

This day, to wit: the 4th day of June, in the year aforesaid, it was ordered, on motion of plaintiffs by their attorney, that they have leave to open depositions herein.

This day, to wit: the 15th day of June, in the year aforesaid, came the said defendant by his said attorney and filed a motion, as follows, viz:

ROBERT FORSYTH *vs.* STINSON A. GOUDY. } Circuit Court United States. June Term, A. D. 1849.

Motion to dismiss.

And the said defendant by Ballanee and Powell, his attorneys, comes and moves the court to dismiss this suit, for the reason that no bond for costs was filed at the time of the commencement of the suit.

BALLANEE & POWELL,
Attorneys for Defendant.

This day, to wit: the 20th day of June, in the year last aforesaid, came the said defendant by his said attorney, and filed his plea as follows, viz:

STINSON A. GOUDY, *ads.* ROBERT FORSYTH, LUCIEN DUMAIN, and ANTHONY R. BOVIS. } Circuit Court of the United States. June Term, A. D. 1849.

And the said defendant, by Ballanee and Powell, his attorneys, comes and defends the force and injury, when, &c., and says that he is not guilty of unlawfully withholding the possession of the premises in the said declaration mentioned in manner and form as therein alleged, and of this he puts himself upon the country.

BALLANEE & POWELL,
Attorneys for Defendant.

The following are copies of the bonds for costs filed in this case before the consolidation thereof, and to which exceptions were taken by motions to dismiss:—

UNITED STATES OF AMERICA,
State and District of Illinois:

Circuit Court, Dec. Term, A. D. 1847.

Know all men by these presents, that I, H. O. Merriman, of the county of Peoria and State and District of Illinois, am held and firmly bound unto Albert F. Lincoln, and to the officers of the Circuit Court of the United States for the District of Illinois, in the sum of five hundred dollars, to be paid to said Lincoln, and to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office. To which payment, well and truly to be made, I do bind myself, my heirs, executors and administrators, and every of them jointly, severally and firmly by these presents. Witness my hand and seal the 16th day of December, in the year of our Lord one thousand eight hundred and forty-seven.

The condition of the above obligation is such, that whereas Robert Forsyth and Lucien Dumain has this day, to wit: at the date of the above written, instituted a suit in the said Circuit Court of the United States for the District of Illinois against Albert F. Lincoln.

Now if the said heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in this behalf, if judgment shall pass against the said defendant, and the costs fail to be collected of said Forsyth and Dumain, or all costs which may have accrued in failure of the prosecution of said

suit to effect, then this obligation shall be void, otherwise of full force and effect.

H. O. MERRIMAN. [L. S.]

NOTE.—In the original is a printed stamp in lieu of a seal or scrawl. This bond was marked "Filed this 16 day of Dec. A. D. 1847.

W. POPE, *Clerk.*"

UNITED STATES OF AMERICA,
State and District of Illinois:

In the Circuit Court, Dec. Term, 1847.

Know all men by these presents, that I, Peter Menard, of the county of Tazewell, State of Illinois, am held and firmly bound unto Albert F. Lincoln, and to the officers of Circuit Court of the United States for the District of Illinois in the sum of five hundred dollars, to be paid to said Lincoln, and to the officers aforesaid, their certain attorneys, heirs, executors, administrators, assigns, and successors in office, to which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, every of them, jointly, severally, and firmly by these presents. Witness my hand and seal this 27th day of December, A. D. 1847.

The condition of this obligation is such, that whereas Robert Forsyth has this day, to wit, on the day of the date of these presents, instituted a suit against Lincoln Lincoln, in said Circuit Court of the United States, in and for the District of Illinois. Now if the said Forsyth, his heirs, executors, or administrators shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that that may accrue in his behalf, if judgment shall pass against the said Lincoln, defendant, and the costs, and fail to be collected of said Lincoln, or all costs that have accrued in future, of the prosecution of said suit to effect, then this obligation to be void, otherwise of full force and effect.

PETER MENARD. [SEAL.]

The above is endorsed, "Filed Dec. 27, 1847.

WM. POPE, *C.*"

UNITED STATES OF AMERICA,
State and District of Illinois:

Circuit Court, Dec. Term, A. D. 1847.

Know all men by these presents, that I, H. O. Merriman, of the county of Peoria and State and District of Illinois, am held and firmly bound unto Stinson A. Goudy, and to the officers of the

Circuit Court of the United States for the District of Illinois, in the sum of five hundred dollars, to be paid to the said Goudy, and to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office. To which payment, well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally, and firmly by these presents. Witness my hand and seal the 16th day of December, in the year of our Lord one thousand eight hundred and forty-seven.

The condition of the above obligation is such, that whereas, Robert Forsyth and Lucien Dumain, have this day, to wit: at the date of the above written, instituted a suit in the said Circuit Court of the United States, for the District of Illinois, against Stinson A. Goudy:

Now if the said Forsyth and Dumain, their heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in this behalf if judgment shall pass against the said defendant, and the costs fail to be collected of said Forsyth and Dumain, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

H. O. MERRIMAN, [L. S.]

NOTE.—To the name H. O. Merriman, in the original, is a printed stamp with the letters L. S., instead of a seal, or scrawl, made with a pen. On the back is this endorsement, "Filed this 16th day of Dec., A. D. 1847.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois:

Circuit Court, December Term, A. D. 1847.

Know all men by these presents, that I, Peter Menard, of the county of Tazewell, and State of Illinois, am held and firmly unto Stinson A. Goudy, and unto the officers of the Circuit Court of the United States for the District of Illinois, in the sum of five hundred dollars, to be paid to said Goudy, and to the officers aforesaid, their certain attorneys, their executors, administrators, assigns, or successors in office, to which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, and every of them, jointly and severally, firmly by these presents. Witness my hand and seal this 27th day of December, A. D. 1847. The condition of this obligation is such, that whereas, Robert Forsyth has on the day of the date of these presents instituted a suit in said Circuit Court of the United States in and for the District of Illinois, against Stinson A. Goudy:

Now if the said Forsyth, his heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in his behalf of judgment, shall pass against the said defendant, and the costs fail to be collected of said defendant, which may have accrued in failure of the prosecution of said suit to effect, then this obligation to be void, otherwise of full force and effect.

PETER MENARD. [SEAL.]

On the back of said bond is this endorsement, "Filed Dec. 27, 1847.

WM. POPE, *Clerk.*

ROBERT FORSYTH,
LUCIEN DUMAIN, and
ANTOINE R. BOVIS,
vs.
ALBERT F. LINCOLN.

Pleas in the Circuit Court of the United States of America for the District of Illinois, held at the city of Springfield, in the district aforesaid, before the Hon. Nathaniel Pope, Judge of the District Court of the United States for the District of Illinois, and in the absence, &c., *pro tempore* of the Hon. John McLean, one of the Justices of the Supreme Court of the United States, sole Judge of said Circuit Court, on Thursday, the 21st day of June, A. D. 1849, and of our Independence the seventy-fourth year.

District of Illinois, sct.

Robert Forsyth, and Lucien Dumain, and Antoine R. Bovis, plaintiffs in this suit, put in their place H. O. Merriman, their attorney, against Albert F. Lincoln, in a plea of trespass and ejectment.

District of Illinois, sct.

Albert F. Lincoln, defendant, puts in his place Charles Ballanee, his attorney, at the suit of the said plaintiffs in the plea aforesaid.

District of Illinois, sct.

Be it remembered, that on the sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-seven, the said plaintiffs, by their said attorney, came into open court and filed their declaration with a notice thereto attached, directed to said defendant, and also an affidavit of a due service of a copy of said declaration and notice upon said defendant, which are as follows, to wit:—

In the Circuit Court of the United States within and for the District of Illinois. Of the December Term of said Court, A. D. 1847.

UNITED STATES OF AMERICA,
District and State of Illinois, ss.

Robert Forsyth and Lucien Dumain, plaintiffs in this suit, complain of Albert F. Lincoln, defendant in this suit, for that, whereas heretofore, to wit, on the first day of August, A. D. 1847, said plaintiffs were possessed of one undivided two-thirds part of the following premises, situate in the village of Peoria, Illinois, to wit: Lot number forty-seven, being part of the south-east fractional quarter of fractional section number nine, in township number eight, north of range number eight, east of the fourth principal meridian, according to the survey approved September 1st, A. D. 1840, by the surveyor of Public Lands in the States of Illinois and Missouri, made in pursuance of an act of Congress of the United States, approved March 3d, A. D. 1823, entitled, "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois." And being so possessed thereof, said defendant afterwards, to wit, on the first day of September, A. D. 1847, entered into such premises, and that he unlawfully withholds from the plaintiffs possession thereof. And said plaintiffs aver that they claim title to said premises above described, in fee simple, and that said plaintiffs are citizens and inhabitants of the State of Missouri, and not of the State of Illinois; and that said defendant is a citizen and inhabitant of the State of Illinois; and that said premises are worth a large amount, to wit, two thousand dollars, and exceed in value the sum of five hundred dollars.

Whereupon said plaintiffs say that they are injured and have sustained damages to a large amount, to wit: one thousand dollars, and therefore they sue, &c.

H. O. MERRIMAN,
Attorney for Plaintiffs.

To ALBERT F. LINCOLN.

Take notice, that on the tenth day of the next Term of the Circuit Court of the United States, within and for the District of Illinois, to be holden at Springfield, in said State, on the first Monday of December next, the above declaration will be filed in said court. That upon filing the same a rule will be entered requiring you to appear and plead to such declaration within twenty days after the entry of such rule, and that if you neglect so to appear and plead, judgment by default will be entered against you, and the plaintiffs will recover possession, &c.

Yours, &c.

H. O. MERRIMAN,
Attorney for Plaintiffs.

State of Illinois, Peoria County, ss.

Affidavit of service.

Clark Cleaveland, being first duly sworn, deposes and says, that on the day of December last past, he served the above declaration and notice upon Albert F. Lincoln, the above-named defendant, who is in the occupancy of the said premises in the said declaration described, by delivering to him a copy of the same personally.

CLARK CLEAVELAND.

Subscribed and sworn to before me, Jacob Gale, Clerk of the Circuit Court of said County. Witness my hand and seal of said County, this 11th day of December, 1847.

JACOB GALE,
Clerk.

And thereupon the following order was made by said court, to wit:

ROBERT FORSYTH AND
LUCIEN DUMAIN
vs.
ALBERT F. LINCOLN.
} Ejectment.

Order for a plea.

This day comes the said plaintiffs by their said attorney, and files their declaration and notice in writing thereto attached, and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon the said defendant: It is ordered that said defendant plead thereto in twenty days, or that his default be entered.

This day, to wit, the 27th day of December, A. D. 1847, came the said plaintiffs (in open court), by their attorney, and presented a bond for costs in this cause signed by Peter Menard, and on his motion it is ordered that said bond be filed and substituted in place of the bond now on file in this cause. Signed by H. O. Merriman.

This day, to wit, the 4th day of January, A. D. 1848, came the said defendant by his said attorney and filed a motion as follows, to wit:

UNITED STATES,
District of Illinois,

Circuit Court, December Term, A. D. 1847.

ALBERT F. LINCOLN
ads.
ROBERT FORSYTH,
LUCIEN DUMAIN.
} In ejectment.

Motion to dismiss for want of a proper bond.

Said defendant, by Ballanee, his attorney, comes and moves the court here to dismiss the above cause, for the reason that it is shown by said declaration that said

plaintiffs are not residents of the State of Illinois, and yet they have given no sufficient bond for costs.

C. BALLANEE,
For Defendant.

This day, to wit: the 16th day of June, of the term of June, A. D. 1848, it is ordered, on motion of plaintiffs, by their attorney, that a commission issue herein to take depositions.

This day, to wit: the 11th day of December, of the term of December, A. D. 1848, on motion of defendant, by his attorney, leave is given him to open depositions herein, which is accordingly done.

This day, to wit: the 14th day of December, of the term of December, in the year last aforesaid, came the said defendant, by his said attorney, and filed his plea as follows, viz:

ALBERT F. LINCOLN *ads.* ROBERT FORSYTH and LUCIEN DUMAIN. } In ejectment.

In the Circuit Court of the United States of America, for the District of Illinois. December Term, A. D. 1847.

Plea. The said defendant, Lincoln, by Ballanee, his attorney, comes and defends the force and injury, when, where, &c., and for plea says, that he is not guilty of the trespass and ejectment in the plaintiffs' declaration mentioned in manner and form as the said plaintiffs in said declaration have declared against him, and of this he puts himself upon the country.

C. BALLANEE,
For Defendant.

This day, to wit: the same day and year last aforesaid, came again the said defendant, by his said attorney, and filed his exceptions to plaintiffs' depositions, which are as follows, to wit:

ALBERT F. LINCOLN *ads.* ROBERT FORSYTH and LUCIEN DUMAIN. } Ejectment.

Said defendant moves the court to quash the depositions taken herein, and for cause shows unto the court,

1st. The last question in said interrogatories is so framed as to obtain an answer only as to such matters as may be of benefit to plaintiffs.

2d. The person to act as commissioner, and who did so act in taking said depositions, was selected by plaintiffs' attorney, and not by the court.

3d. Said commissioner was interested both as an attorney and

party in similar cases, and in some of the questions to be decided in this case.

4th. Said depositions do not appear to have been taken in this cause, but to have been taken to be read in a cause wherein Abner F. Lincoln is defendant.

C. BALLANEE.

This day, to wit: the 22d day of December, in the year last aforesaid, came the said parties by their said attorneys, and the defendant's exceptions to plaintiffs' depositions, taken herein, having been argued, it is ordered by the court that said exceptions be overruled.

This day, to wit, the 8th day of January, A. D. 1849, of the term of December, A. D. 1848, came the said defendant by his said attorney, and filed his bill of exceptions as follows, to wit:

ROBERT FORSYTH and LUCIEN DUMAIN *vs.* ALBERT F. LINCOLN. } Ejectment.

Be it remembered that before the trial of this cause, to wit: on the eleventh day of December, A. D. 1849, the defendant filed the following motion to quash or reject the depositions taken herein, to wit:

ALBERT F. LINCOLN *ads.* ROBERT FORSYTH and LUCIEN DUMAIN. } Ejectment.

Said defendant moves the court to quash the depositions taken herein, and for cause shows unto the court—

1st. The last question in said interrogatories is so framed as to obtain an answer only as to such matters as may be of benefit to plaintiffs.

2d. The person to act as commissioner, and who did so act in taking said depositions, was selected by plaintiffs' attorney, and not by the Court.

3d. Said commissioner was interested both as an attorney and party in similar cases, and in some of the questions to be decided in this case.

4th. Said depositions do not appear to have been taken in this cause, but to have been taken to be read in a case wherein one Abner Lincoln is defendant.

C. BALLANEE.

And to sustain said motion filed an affidavit of Charles Ballanee, which is as follows, to wit:

UNITED STATES OF AMERICA, *District of Illinois*, } *ss.* December Term, A.D. 1848.

ALBERT F. LINCOLN *ads.* ROBERT FORSYTH and LUCIEN DUMAIN. } In Ejectment.

I, Charles Ballanee, do solemnly swear, that this suit is brought to establish a claim under the Act of Congress, passed May 15, 1820. That there are many other claims depending upon the same law; that for many years I have been engaged against those claims, and have often heard said John F. Darby spoken of as a speculator in said claims, and as being the attorney for some of those claimants. I was recently at the land office at Edwardsville, and there saw letters from said Darby to said Register on the subject of said claims, or some of them, and written in advocacy thereof, but which of those claims I cannot state, because, not knowing that any depositions had been taken by him, I made no minute of said letters. I believe that before the dedimus issued in this case, that both the plaintiff, Forsyth, and his attorney, Merriman, knew of the connection of said Darby with these claims, and that he had acted as the attorney of said Forsyth in some of those cases; and that he was then or had been the owner of some of them. And further deponent saith not.

C. BALLANEE.

Subscribed and sworn to before me this 15th Dec., 1848.

WM. POPE,

Commissioner Circuit Court U. S., Dist. Illinois.

The plaintiffs, in opposition of said motion, filed the following affidavits of Holsy O. Merriman and Robert Forsyth, to wit:

ROBERT FORSYTH *et al.* *vs.* ALBERT F. LINCOLN. } United States District Court, Dec. Term, 1848.

Robert Forsyth, one of the above-named plaintiffs, being first duly sworn, deposes and says: That Lucien Dumain, his co-plaintiff, has not taken any active part in this suit, but has entrusted the management thereof wholly to affiant and his attorneys, and that the first intimation he, affiant had, and he believes the same of said Dumain, of the appointment of John F. Darby as commissioner, was the receipt of the commission in St. Louis. That he, and as he believes, the said Dumain, never directed or suggested the appointment of said Darby such commissioner; that said Darby has not nor never had any interest, direct or indirect, in this or any other suit pending

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in this court, and that he has no interest in the questions to be settled by this suit, or any claims called French Claims at Peoria; that the only connection he, said Darby, ever had with said claims, to affiant's knowledge, was this: He was in one or two instances employed by the claimants to obtain their patents from Washington, and used in any suit or suits growing out of said claims; and on one occasion he purchased a portion of one small claim to lots in Peoria, which he sold by quit claim deed during the past year for $150 to a gentleman living at Peoria, Illinois. This is the extent of the speculations of said Darby in said claims, so far as affiant knows, or ever heard. And as affiant was born at Peoria, and while it was peopled almost solely by the French, and has ever since resided in and near St. Louis, and had pretty constant intercourse with the old inhabitants of said Peoria, and been intimate with their transactions, he believes he knows well about the matter.

Affiant further states that said Darby is not a Frenchman, nor in any way connected with the old inhabitants of the French village of Peoria. And although a man of correct business habits and good capacity, he has never but once employed him as his attorney, and that was some years ago, in St. Louis, and in no way connected with the claim in controversy, and he is not the attorney for affiant in this or any other matter or suit, and has not been for the past year.

ROBERT FORSYTH.

Subscribed and sworn to this 19th day of December, A. D. 1848, before me,

WM. POPE, *Clerk.*

United States District Court, December Term, 1848.

ROBERT FORSYTH *et al.*
vs.
ALBERT F. LINCOLN. } In Ejectment.

H. C. Merriman being first duly sworn, deposes and says: That at the time of issuing the commission to John F. Darby, in this cause, he has no knowledge or information from any source whatever that said Darby was a speculator in French claims, under act of Congress of 3d March, 1823, under which act the plaintiffs claim title to the lands in controversy; nor has affiant ever to this time heard any such thing from any person except C. Ballanee, who is really interested in the land in controversy on the part of the defence in this suit, as affiant is informed and verily believes. Affiant further states that at the time of issuing said commission he had no knowledge or information whatever that said Darby had ever acted as attorney for any of said French claimants in procuring patents, or in any other way. That affiant is informed by said Darby, and believes that said Darby has no interest in any of

said claims, and certainly he has not nor ever had to any claims concerning which any suit is now depending in this court, or any other growing out of said act of Congress, so far as the facts have come to the knowledge of affiant.

Affiant further states, that he, as the attorney of plaintiffs, suggested said Darby to be appointed as such commissioner, and without the suggestion or direction, direct or indirect, of said plaintiffs, or any other person or persons, and without the knowledge of said plaintiffs or either of them; and purely because he, affiant, from his personal acquaintance with said Darby, and his reputation as an upright, honest, correct, and capable business man, was well qualified to perform that duty, and from no other motive; and affiant still entertains of him the same opinion. And affiant believes that he has not, and never had any interest in the property in dispute.

H. C. MERRIMAN.

Subscribed and sworn to this 19th day of December, A. D. 1848, before me,

WM. POPE, *Clerk.*

Whereupon, after the arguments of counsel, the court overruled said motion, to which decision of the court overruling said motion, the defendant by his attorney Ballanee excepted, and prayed that this his bill of exceptions may be signed, sealed and made of record, which is done, &c.

This day, to wit, the 18th day of January, A. D. 1849, of the Term last aforesaid, came the said plaintiffs by their said attorneys, and on their motion leave is given them to amend their declaration herein, and that said amended declaration be filed by the first day of March next.

This day, to wit, the 24th day of April, A. D. 1849, came the said plaintiffs into the said clerk's office by his said attorney and filed an amended declaration as follows, viz:

In the Circuit Court of the United States, in and for the district of Illinois.

Of the June Term, in the year of our Lord one thousand eight hundred and forty-nine.

UNITED STATES OF AMERICA,
District and State of Illinois:

Robert Forsyth, Lucien Dumain and Antoine R. Bovis, plaintiffs in this suit, of the State of Missouri, one of the United States of America, complain of Albert F. Lincoln and Charles Ballanee, defendants in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea, wherefore he the said defendant with force and arms, &c., entered into the following described premises:

For that heretofore, to wit, on the first day of September, in the year of our Lord one thousand eight hundred and forty-seven, the said plaintiffs were possessed of certain premises situated in the County of Peoria, in the said State of Illinois, and described as follows, to wit: "The lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven-hundredths of a square foot, surveyed and designated as covered by claim number forty-seven, in the south-east fractional quarter of fractional section nine, in township eight, north of range eight, east of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri, and conveyed by letters patent of the United States, dated the twenty-seventh day of March, A. D. 1847, to the legal representatives of Louis Le Boushier.

Also the lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven-hundredths of a square foot, surveyed and designated as covered by claims number sixty-five and sixty-eight, in the south-east fractional quarter of fractional section nine, in township eight, north of range eight, east of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of public lands in the States of Illinois and Missouri, and conveyed by letters patent of the United States, dated December the 16th, A. D. 1845, to Antoine Bourbonne or to his legal representatives.

And being so possessed thereof, the said defendant afterwards, to wit, on the first day of September, in the year of our Lord one thousand eight hundred and forty-seven, entered into such premises, and that he unlawfully withholds from the plaintiffs the possession thereof; and said plaintiffs aver that they claim title to said premises in fee, and that said plaintiffs are citizens and inhabitants of the State of Missouri, in the United States of America, and that he the said defendant is a citizen and inhabitant of the State of Illinois, in the United States of America: and said plaintiffs further aver, that the aforedescribed premises being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars.

Wherefore said plaintiffs say that they are injured and have sustained damages to a large amount, to wit: one thousand dollars, and therefore they sue, &c.

H. C. MERRIMAN, *Attorney for Plaintiffs.*

This day, to wit: the 4th day of June, of the term of June, A. D. 1849, came the said plaintiffs by their said attorney, and on their motion leave is given him to open depositions herein.

This day, to wit: the 15th day of June of the term and year last aforesaid, came the said defendant by his said attorney, and filed a motion as follows, to wit:

ROBERT FORSYTH
vs.
ALBERT F. LINCOLN. } Circuit Court U. S. June Term, A. D. 1849.

And the said defendant, by Ballanee and Powell, his attorneys, comes and moves the court to dismiss this suit, because no bond for costs was filed at the time the suit was commenced.

BALLANEE & POWELL, *Attorneys for Defendant.*

This day, to wit: the 19th day of June, of the term and year last aforesaid, came again the said defendant by his said attorney, and filed a motion as follows, viz:

UNITED STATES OF AMERICA,
District of Illinois:

ROBERT FORSYTH *et. al.*
vs.
ALBERT F. LINCOLN. } June Term, 1849.

Defendant moves the court to exclude the depositions of Felix Fontaine and Lissette Mitte, taken in this case since the last term of this court, for the following reasons, to wit:

1st. Nothing in Forsyth's affidavit to show Barry was Mayor of the city of St. Louis.

2d. The order for deposition has the same defect.

3d. The notice is shorter than the time allowed by law.

4th. Said supposed deposition is an affidavit, and not a deposition.

5th. The witnesses appearing to be illiterate, by having made marks instead of signing their names, the depositions ought to have been read to them, which does not appear to have been done.

C. BALLANEE.

This day, to wit: the 23d day of June, of the same term and year aforesaid, came again the said parties by their said attorneys, and the motion heretofore made by defendant, and argued on the 20th inst., to exclude the depositions of Felix Fontaine and Lissette Mitte, was by the court overruled.

This day, to wit: the 21st day of June, of the term of June, in the year last aforesaid, came the said defendant and filed his plea as follows, to wit:

ROBERT FORSYTH, LUCIEN DUMAIN, and ANTHONY R. BOVIS, *vs.* CHARLES BALLANEE. } In the Circuit Court United States. June Term, A. D. 1849.

And the said defendant, by Ballanee & Powell, comes and defends the force and injury, where, &c., and says that he is not guilty of unlawfully withholding the possession of the premises in the said declaration mentioned, in manner and form as the said plaintiffs have alleged; and of this he puts himself upon the country.

BALLANEE & POWELL, *Attorneys for Defendant.*

Agreement of consolidation and possession.

This day, to wit, the 21st day of June, A. D. 1849, came Robert Forsyth, Lucien Dumain, and Antoine R. Bovis, plaintiffs, by their attorney, and also came Albert F. Lincoln and Stinson A. Gondy, defendants in the foregoing entitled suits, by their attorney, and filed an agreement in the words and figures following, to wit:—

ROBERT FORSYTH *et al.* *vs.* ALBERT F. LINCOLN. SAME *vs.* STINSON A. GOUDY. } In the United States Circuit Court. Ejectment.

It is agreed that Charles Ballanee be made defendant in place of said Lincoln, he being tenant of said premises. And that said Ballanee admits himself to have been, and still to be, in possession of lots No. 47, and 65, and 68, described in the declaration. Except lot No. (10) ten, in block 34, in Bigelow and Underhill's addition to Peoria at the time of the commencement of this suit.

It is further agreed that said Ballanee was in possession of that portion of said premises covered by lots one and two in block No. 51, in said addition, more than seven years before the commencement of this suit, by actual residence with his family thereon up to 1845, and from that time by his tenants.

And that portion of said premises northwest of Water street in said addition said Ballanee has possessed more than seven years, in manner following, to wit:—"By enclosure and cultivation of the same as a garden, said Ballanee residing southeast of said street.

It is further agreed that J. L. Bogardus, in 1832 was in possession of the southeast quarter of section 9, T. 8, N. R. 8 east of the 4th principal meridian, and continued in possession thereof until 1834, when Isaac Underhill went into possession of said quarter section under said Bogardus; and said Ballanee was in possession of said

premises in dispute, under claim of title derived from said Bogardus.

The manner of such possession of said Bogardus and Underhill was by having tenants residing on portions of said quarter section and exercising a ferry franchise thereon, claiming a right of possession to the whole quarter section; neither of them, however, residing or having tenants on the premises in dispute, except as above stated.

It is further agreed that said Bigelow & Underhill's addition is laid out in the said quarter section, and a certified copy of said plat is hereby referred to, and may be read by either party on the trial of this cause, the same being certified by Charles Kittelle, Recorder of Peoria County, Illinois, in which county said land lies.

It is further agreed that either party may read as evidence the report of Edward Coles, Register of the Land Office at Edwardsville, Illinois, dated Nov. 10, 1820, from the 3d volume of American State Papers, printed by Duff Green, by authority of Congress; the same shall have the same force and effect as the original would if same were produced.

It is further agreed that said suits be consolidated and tried in one action. Any of the above facts shall be disregarded by the court, if deemed incompetent evidence by the court, and either party may produce and offer any further competent and material evidence not inconsistent with the facts above admitted.

The above facts are admitted for the purposes of this trial, and upon the understanding that this agreement is not a waiver of the production of title papers by the respective parties.

H. C. MERRIMAN,
Attorney for Plaintiffs.

C. BALLANEE,
For Defendant.

June 21, 1849.

Trial.

This day, to wit: the 21st day of June, in the year of our Lord one thousand eight hundred and forty-nine, came the said parties by their said attorneys in open court, and a trial was had and a judgment was rendered by said court, which is as follows, to wit:

ROBERT FORSYTH,
LUCIEN DUMAIN, and
ANTHONY R. BOVIS,
vs.
ALBERT F. LINCOLN.

Ejectment.

ROBERT FORSYTH,
LUCIEN DUMAIN, and
ANTHONY R. BOVIS,
vs.
STINSON A. GOUDY. } Ejectment.

This day came the said parties, by their attorneys, and the said defendants being tenants of Charles Ballanee, said parties filed their agreement in writing, and thereupon said Charles Ballanee, the landlord of the premises in controversy in said suits, was permitted according to said agreement to defend said suits in his own name, and in place and instead of said defendants, and by the agreement of said parties it was ordered that said suits be consolidated and tried, and hereafter proceed in one action.

Jury called. And issue being joined thereupon came a jury, to wit: E. H. Merryman, R. H. Lesure, Wm. H. Herndon, Samuel Higby, D. E. Ruckel, Daniel Turney, E. B. Tunstall, Charles L. Jones, Philo Beers, C. J. Ridgway, Samuel C. Parks, and R. B. Slocumb, who being duly elected, tried and sworn well and truly to try the issue joined under the direction of the court, found the defendant guilty of unlawfully withholding from the said plaintiffs the possession of the following described premises, to wit: "Lot number forty-seven, confirmed to the legal representatives of Louis Le Boushier, and lot number sixty-five (65), also covered by lot number sixty-eight (68), confirmed to Antoine Bourbonne, by virtue of the confirmatory act of Congress of the United States of 3d March, A. D. 1823, entitled 'An act to confirm certain claims to lots in the Village of Peoria, in the State of Illinois, except that portion of said lot sixty-five (65), covered by a portion of lot number ten (10) in block number (34) thirty-four, in Bigelow & Underhill's addition to Peoria, being part of the southeast fractional quarter of fractional section number nine (9), in township number eight (8), north in range number eight (8), east of the fourth principal meridian in the State of Illinois, and we assess their damages to one cent.'" It is, therefore, considered and

Judgment. adjudged by the court, that said plaintiffs recover of and from said defendant the possession of the above-described premises; it is further ordered, that they recover their damages of one cent according to the verdict of the jury, and that they have a writ of possession for the above-described premises, and an execution for costs.

Whereupon said defendant excepts to the ruling of the court, and presents his bill of exceptions, which he prays may be signed, sealed, and made of record, which is accordingly done, and is as follows, to wit:

ROBERT FORSYTH *et al.*
vs.
CHARLES BALLANEE, permitted to defend in his own name in place of STINSON A. GOUDY and ALBERT F. LINCOLN, original defendants. } Ejectment.

In the Circuit Court United States, June Term, 1849.

Bill of Exceptions.

Be it remembered, that on the trial of the above cause, as consolidated, the plaintiffs read in evidence to prove title to the premises in controversy, and to maintain the issues on his part.

1st. The act of Congress of the United States, of 15th May, 1820, entitled "An Act for the relief of the Inhabitants of the village of Peoria, in the State of Illinois," as follows, to wit:

Act of 1820.

"Be it enacted by the Senate and House of Represent-
"atives of the United States of America, in Congress
"assembled, That every person, or the legal represent-
"atives of every person, who claims a lot or lots in the
"village of Peoria, in the State of Illinois, shall on or before the
"first day of October next, deliver to the Register of the land office,
"for the district of Edwardsville, a notice in writing of his or her
"claim, and it shall be the duty of the said Register to make to the
"Secretary of the Treasury a report of all claims, filed with the said
"register, with the substance of the evidence in support thereof; and
"also his opinion, and such remarks respecting the claims as he
"may think proper to make; which report, together with a list of
"the claims, which in the opinion of the said Register ought to be
"confirmed, shall be laid by the Secretary of the Treasury before
"Congress for their determination; and the said Register shall be
"allowed twenty-five cents for each claim, on which a decision shall
"be made, whether such decision shall be in favor or against the
"claims; which allowance shall be in full for his services under this
"act.
"*Approved May 15th*, 1820.

Act of 1823.

2d. The act of Congress of the United States of 3d March, 1823, entitled "An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," which is as follows, to wit:

"Be it enacted by the Senate and House of Representatives of
"the United States of America, in Congress assembled, That there
"is hereby granted to each of the French and Canadian inhabitants,
"and other settlers in the village of Peoria, in the State of Illinois,
"whose claims are contained in a report made by the Register of the
"Land Office at Edwardsville, in pursuance of the act of Congress,
"approved May the fifteenth, one thousand eight hundred and twenty,
"and who had settled a lot in the village aforesaid prior to the first
"day of January, one thousand eight hundred and thirteen, and who

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"have not heretofore received a confirmation of claims, or donation "of any tract of land or village lot from the United States, the lot "so settled upon and improved. Where the same shall not exceed "two acres, and when the same shall exceed two acres, every such "claimant shall be confirmed in a quantity not exceeding ten acres: "*Provided*, nothing in this act contained shall be so construed as "to effect the right, if any such there be, of any other person or "persons to the said lots, or any part of them, derived from the "United States, or any other source whatever, or as a pledge on the "part of the United [States], to make good any deficiency occasioned "by any other interfering claim or claims.

"*Section* 2. *And be it further enacted*, That it shall be the duty "of the Surveyor of the Public Lands of the United States for that "district, to cause a survey to be made of the several lots, and to "designate on a plat thereof the lot confirmed and set apart to each "claimant, and forward the same to the Secretary of the Treasury, "who shall cause patents to be issued in favor of such claimants as "in other cases.

"*Approved March* 3, 1823.

3*d*. A patent from the President of the United States to the legal representatives of Louis Le Boushier, conveying lot No. 47, which patent is as follows, viz:—

Patent to legal representatives of Le Boushier.

"The United States of America, to all to whom these presents shall come, greeting: Whereas, there has been deposited in the General Land Office a certificate numbered twenty-eight, of the Register and Receiver of the Land Office at Edwardsville, Illinois, for the claim number forty-seven in the report dated 10th November, 1820, of Edward Coles, Register of the Land Office at Edwardsville, Illinois; which claim is entered in that report in the name of Hypolite Maillet, in right of his wife Josette Demouchelle, the late widow of Louis Le Boushier." And whereas, it appears from the certificate aforesaid, that the said Louis Le Boushier is the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d of March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois;" and that it has appeared to the satisfaction of said Register and Receiver that the said inhabitant or settler did not prior to the said act of 3d March, 1823, receive a confirmation of claims, or donation of any tract of land or village lot from the United States; and that the legal representatives of the said Louis Le Boushier, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot, which is described as follows, to wit: the lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven-hundredths of a square foot, surveyed and designated as covered by said claim number forty-seven, in the south-east fractional quarter of fractional section nine, in township eight, north of range eight,

east of the fourth principal meridian of Illinois, according to the survey approved 1st September, 1840, by the Surveyor of the Public Lands in the States of Illinois and Missouri. And whereas, in the confirmatory act aforesaid of the 3d March, 1823, it is *provided* that nothing in this act contained shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever—

Now know ye, That in consideration of the premises, and pursuant to the second section of the Act aforesaid of the 3d March, 1823, there is granted by the United States to the legal representatives of the said Lewis Le Boushier, and to their heirs, subject to the proviso aforesaid, the lot of land above described: to have and to hold the said lot of land with the appurtenances unto the said legal representatives of Lewis Le Boushier, and to their heirs and assigns forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twenty-seventh day of March, in the year of our Lord one thousand eight hundred and forty-seven, and of the Independence of the United States the seventy-first.

By the President.

JAMES K. POLK. [SEAL.]
By J. KNOX WALKER,
Secretary.

S. H. LAUGHLIN,
Recorder of the General Land Office.

Recorded Vol. X., pp. 133, 134.

4th. A plat of the survey of the village of Peoria, duly proved and certified by the surveyor of public lands in the States of Illinois and Missouri, in one continuous survey, which plat is as follows, to wit, marked A, and hereto appended.

Plat of 47. 5th. A separate plat of the survey of said lot No. 47, duly proved and certified by said surveyor, as follows, viz.:

Claim No. 47.

Situate in the south-east fractional quarter of fractional section 9, in fractional township 8, north of the base line range 8, east of the 4th principal meridian.

Plat and description of the survey of a lot in the new village of Peoria, in the State of Illinois: Confirmed to Hypolite Maillet in right of his wife Josette Demouchette, the late widow of Louis Le Boushier, deceased, by an Act of Congress, approved the 3d March, 1823, en-

No 186: Plantation
near
Frankfort Ky.
Dec. 42.

Scale of 100 ft to one inch

Part of Franklin Co. Ky.

Spring

Lane

Mr Ellis

Mr Ellis

Mr Ellis

titled "An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 47 of the report made by the Register of the Land at Edwardsville, in pursuance of an Act of Congress, approved the 15th of May, 1820, entitled "An Act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

Plat of lot 47. (For plat, see original, page 42.)

Commence at a post, in the N. W. edge of First street, which post is the south corner of this lot, and east corner of the surveys, which have been made of each of the claims numbered 1 and 42, thence N. 46½° W., 320 feet 10 inches to a post in the S. E. edge of Second street, which post is the west corner of this lot, and north corner of the survey of the claims numbered 1 and 42; thence with the S. E. edge of Second street N. 43½, E. 85 feet 6 inches and ⅔ds of an inch to a post, the north corner of this lot, and west corner of the survey which has been made of claims numbered 65 and 68; thence S. 46½, E. 320 feet 10 inches to a post on the N. W. edge of First street, which post is the east corner of this lot, and south corner of the survey of claims numbered 65 and 68; thence with the N. W. edge of First street S. 43½, W. 85 feet 6 inches and ⅔ds of an inch to the place of beginning.

This lot contains 27,449 square feet, and $\frac{7}{100}$ of a square foot of land, equal to 24,000 square feet, French measure.

Surveyed on the 2d of May, 1837, by Jos. C. Brown, deputy surveyor, under instructions from Daniel Dunklin, Surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

S. WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Mo.

SURVEYOR'S OFFICE,
St. Louis, 22d July, 1847.

The foregoing plat and description of lot No. 47, in the town of Peoria, the caption thereto and the certificate of approval thereof, are correctly copied from the record thereof in the "Record of Surveys" of lots (in) "Peoria, Illinois," in this office.

J. R. CONWAY,
Surveyor of Public Lands in the States of Illinois and Missouri.

Writing . .	50 c.
Plat . . .	25
Cost . . .	25
	$1 00

ADOLPH RENARD,
Clerk.

6th. The depositions of Felix Fontaine and Lisette Metté, filed June 4th, 1849, which are as follows, to wit:

ROBERT FORSYTH, LUCIEN DUMAIN, and ANTHONY R. BOVIS, *vs.* STINSON A. GOUDY. — In the Circuit Court of the United States for the District of Illinois.

Forsyth affidavit.

Robert Forsyth, of the County of St. Louis, in the State of Missouri, being sworn, says that he is one of the plaintiffs in the above-entitled cause; that he is advised by his counsel, and verily believes that the testimony of Felix Fontaine and Lissette Metté, at present residents of the City of St. Louis, in said County of St. Louis and State of Missouri, is material and necessary for the above-named plaintiffs in the prosecution of such cause; that the said Fontaine and Metté live at the said City of St. Louis, more than one hundred miles from Springfield, in the State of Illinois, where the court at which this deponent expects the said cause will be tried, is appointed by law to be held.

And this deponent further says, that he is informed and believes Stinson A. Goudy (the above-named defendant), resides at Peoria, in the said State of Illinois, about one hundred and sixty miles distant from the said City of St. Louis, the place where the examination of said witnesses is expected to be taken: and that as he also is informed and believes Charles Ballanee resides at the said town of Peoria.

ROBERT FORSYTH.

Sworn to and subscribed before me, this 10th day of May, 1849.

JAMES G. BARRY,
Mayor of the City of St. Louis.

ROBERT FORSYTH, LUCIEN DUMAIN, and ANTHONY R. BOVIS, *vs.* STINSON A. GOUDY. — United States Circuit Court for the District and Circuit of Illinois.

Order for deposition.

Let Felix Fontaine and Lissette Metté, the witnesses named in the within affidavit, be examined *de bene esse* before me, accordingly, at the City Hall, at my office in the City of St. Louis, County of St. Louis, and State of Missouri, on the 26th day of May, 1849, between the hours of 8 o'clock in the forenoon and 8 o'clock in the afternoon of that day, and let nine days' notice be given to said defendant, or his attorney, of such examination.

Given and ordered this tenth day of May, A. D. eighteen hundred and forty-nine.

JAMES G. BARRY,
Mayor.

ROBERT FORSYTH,
LUCIEN DUMAIN, and
ANTHONY R. BOVIS,
vs.
STINSON A. GOUDY.

In the Circuit Court of the United States for the Circuit and District of Illinois.

SIR—You are hereby notified that Felix Fontaine and Lisette Metté will be examined before me *de bene esse* at the City Hall, at my office, in the City of St. Louis, County of St. Louis, and State of Missouri, on the 26th day of May, A. D. 1849, between the hours of 8 o'clock in the forenoon and 8 o'clock in the afternoon of that day, as witnesses for the above plaintiffs according to the act of Congress in such case made and provided, and that such examination, if not completed on that day, will be continued from day to day until completed, at the same place and between the same hours; at which time and place you are entitled by law to be present and put interrogatories to the witnesses.

Notice to take deposition.

JAMES G. BARRY,
Mayor of the City of St. Louis.

To STINSON A. GOUDY or CHARLES BALLANEE,
Attorney for said Defendant.

Received copy of above notices this 12th day of May, 1849.
C. BALLANEE.

Be it remembered, that on the tenth day of May, in the year of our Lord one thousand eight hundred and forty-nine, at my office, in the City Hall, in the City of St. Louis, in the County of St. Louis, and State of Missouri, personally appeared Robert Forsyth, before me, James G. Barry, Mayor of the said City of St. Louis, and made oath that he, the said Robert Forsyth, together with Lucien Dumain and Anthony R. Bovis, were plaintiffs in a suit then depending in the Circuit Court of the United States for the Circuit and District of Illinois, wherein Stinson A. Goudy was defendant. That the testimony of Lissette Metté and Felix Fontaine, of the said City and County of St. Louis, was material and necessary for them, said plaintiffs, in the prosecution of such suit, and that they, the said Metté and Fontaine, lived in the said City of St. Louis, more than one hundred miles from Springfield,

Caption of depositions.

in the State of Illinois, where the court at which the said plaintiff expected the said cause would be tried was appointed by law to be held; that Stinson A. Goudy, the above-named defendant, and Charles Ballanee, his attorney, resided at Peoria, in the said State of Illinois, about one hundred and seventy miles from the City of St. Louis aforesaid; and the said Robert Forsyth requested me that that the said Lisette Metté and Felix Fontaine might be examined according to the directions of the act of Congress in such case made and provided:

Whereupon I ordered that the said Lisette Metté and Felix Fontaine should be examined *de bene esse* before me, at my office, in the City Hall, in the City of St. Louis, County of St. Louis, and State of Missouri, on the 26th day of May, A. D. eighteen hundred and forty-eight, between the hours of 8 o'clock in the forenoon and 8 o'clock in the afternoon of that day, and that *nine* days' notice should be given to the said Stinson A. Goudy, or Charles Ballanee, his attorney, of such examination, to the end that he might, if he should see fit, be present at the examination and put interrogatories: and I, having satisfactory proof that such notice had been given, and the said plaintiffs appearing before me, at my said office, in the City Hall, in the City of St. Louis, County of St. Louis, and State of Missouri, on this twenty-sixth day of May, A. D. 1849, I have, therefore, proceeded with the said examination.

Lisette Metté's deposition.

And the said Lisette Metté, being carefully examined and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith:

I am seventy-one years old. I live in the City of St. Louis. I lived for many years in Peoria, in the Illinois. I left Peoria one year before the war of 1812. I had lived there about fifteen years. I recollect a lot in the town of Peoria which belonged to Antoine Bourbonnias. Louis Birmette was the first occupant of that lot. Pagerette occupied the lot after Birmette, and it was the general understanding that Birmette had sold the same to Pagerette. When I left Peoria, Bourbonne was in possession of the lot. I heard that Pagerette had sold it to Borbonne.

There was not much ceremony in the sale of real estate in those days. A person would buy a lot and take possession, and not think of asking for a deed. Birmette lived in Peoria at the time Bourbonne lived on the lot. The lot was bounded on the north by a street separating it from Grand Bois; on the south by the lot of Louis L. Boushine. When I say north, I say up the river. I nothing further of benefit either to plaintiffs or defendant. And further deponent saith not.

her
LISSETTE + MOTTE.
mark.

Felix Fontaine's deposition.

And the said Felix Fontaine being carefully examined and cautioned, and duly sworn to testify the whole truth, and nothing but the truth, says, I am sixty-five years old. I live in the city of St. Louis. I have lived in Peoria, in the Illinois. I lived there from the time I was fifteen years old up to the year 1812. I remember a lot in the town of Peoria which was occupied by Antoine Bourbonne. When I left Peoria in 1812, Bourbonne lived on the lot. The lot I speak of was bounded on the north by a street separating it from Antoine Grandbois, and on the south by the lot of Louis Le Boushier. Before Bourbonne took possession, the lot was occupied by Louis Binnitte, and Binnitte sold the same to a man named Pagerette. I was present at the sale, and heard the bargain. The sale was concluded at the house of Francois Racine. As soon as Pagerette bought the lot, he took possession of it. Pagerette afterwards sold the lot to Bourbonne. I was present at that sale. It took place in the house which was situated on the lot itself. Immediately after the purchase, Bourbonne moved his furniture into the house and took possession of the lot, and continued in possession of the lot from that time up to the time I left Peoria. I know that Pagerette and Binnitte have frequently seen Bourbonne in possession of that lot. Bourbonne left the lot in 1812. I know nothing further of benefit either to plaintiffs or defendant. And further deponent saith not.

his
FELIX + FONTAINE.
mark.

And I do further certify that the preceding depositions were reduced to writing by me, and signed by the said Lissette Mette and Felix Fontaine, in my presence, in my office, in the City Hall, in the city of St. Louis, county of St. Louis, and the State of Missouri, on the twenty-sixth day of May, A. D. 1849, between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon of said day; and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my hand and affixed the official seal of the city of St. Louis, this twenty-sixth day of May, eighteen hundred and forty-nine.

JAMES G. BARRY,
Mayor of the City of St. Louis.

ROBERT FORSYTH, LUCIEN DUMAIN and ANTHONY R. BOVIS *vs.* ALBERT F. LINCOLN. } In the Circuit Court of the United States for the Circuit and District of Illinois.

Notice to take depositions.

To the above-named defendant or to Charles Ballanee, his attorney.

You are hereby notified that Angelique Fortier, Lissette Metté and Felix Fontaine will be examined *de bene esse* before me at my office, in the City Hall, in the City of St. Louis, in the County of St. Louis and State of Missouri, on the 31st day of May, A. D. 1849, between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon of that day, as witnesses for the above-named plaintiffs according to the act of Congress in such case made and provided, and that the taking of said depositions, if not completed on that day, will be continued from day to day, at the same place and between the same hours until completed, at which time and place you are entitled by law to be present, and to put interrogatories to said witnesses.

Dated this 14th day of May, A. D. 1849.

JAMES G. BARRY,
Mayor of the City of St. Louis.

Received copy of above notice this 16th day of May, 1849.
C. BALLANEE.

ROBERT FORSYTH, LUCIEN DUMAIN and ANTHONY R. BOVIS *vs.* ALBERT F. LINCOLN. } Circuit Court of the United States for the Circuit and District of Illinois.

Forsyth's affidavit to take depositions.

Robert Forsyth, of the County of St. Louis, State of Missouri, being sworn, says that he is one of the plaintiffs in the above-entitled cause: that he is advised by his counsel and verily believes that the testimony of Angelique Fortier, Lissette Metté and Felix Fontaine, is material and necessary for the deponent in the prosecution of such cause: that the said Fortier lives in the County of St. Clair, in the State of Illinois, and said Metté and Fontaine live in the County of St. Louis, in the State of Missouri, more than one hundred miles from the town of Springfield, in the State of Illinois, where the court at which this deponent expects the said cause will be tried is appointed

by law to be held: and this deponent further says that, as he is informed and believes Albert F. Lincoln, the above-named defendant, and Charles Ballanee, his attorney, live at Peoria, in the said State of Illinois, about one hundred and seventy miles distant from the said city of St. Louis, in the county of St. Louis, and State of Missouri, the place where the examination of said witnesses is expected to be taken.

ROBERT FORSYTH.

Sworn to and subscribed before me, this 14th day of May, A. D. 1849.

JAMES G. BARRY,
Mayor of the City of St. Louis.

ROBERT FORSYTH, LUCIEN DUMAIN, and ANTHONY R. BOVIS *vs.* ALBERT F. LINCOLN. } Circuit Court of the United States for the Circuit and District of Illinois.

Order to take depositions.

Let Angelique Fortier, Lissette Metté, and Felix Fontaine, the witnesses named in the foregoing affidavit, be examined *de bene esse*, before me accordingly, at my office in the City Hall, in the city of St. Louis, county of St. Louis, and State of Missouri, on the 31st day of May, A. D. 1849, between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon of that day, and let at least nine days notice be given to said defendant, or to his attorney, Charles Ballanee, of such examination.

Given and ordered this 14th day of May, A. D. 1849. As witness my hand and official seal.

[SEAL.]

JAMES G. BARRY,
Mayor of the City of St. Louis.

Caption to depositions.

Be it remembered, that on the fourteenth day of May, in the year of our Lord one thousand eight hundred and forty-nine, at my office in the City Hall, in the city of St. Louis, in the county of St. Louis, and State of Missouri, Robert Forsyth personally appeared before me, James G. Barry, Mayor of the City of St. Louis, and made oath that he, the said Forsyth, together with Lucien Dumain and Anthony R. Bovis, were plaintiffs in a suit then depending in the Circuit Court of the United States for the Circuit and District of Illinois, wherein Albert F. Lincoln was defendant; that the testimony of Felix Fontaine, Lissette Metté, and Angelique Fortier, was material and necessary for said plaintiffs in the prosecution of such suit. And that the said Felix Fontaine and Lissette Metté lived in the city of St. Louis, in the county of St. Louis, and State of Missouri.

And the said Angelique Fortier lives in the county of St. Clair, in the State of Illinois, more than one hundred miles from the town of Springfield, in the said State of Illinois, where the court at which he the said plaintiff expected the said cause would be tried was appointed by law to be held. That Albert F. Lincoln, the above-named defendant, and Charles Ballanee, his attorney, lived in Peoria, in the State of Illinois, about one hundred and seventy miles from the city of St. Louis, aforesaid. And the said Robert Forsyth requested me that the said Felix Fontaine, Lissette Metté, and Angelique Fortier might be examined according to the directions of the act of Congress, in such case made and provided.

Whereupon I ordered that the said Felix Fontaine, Lissette Metté, and Angelique Fortier should be examined *de bene esse* before me, at my office in the City Hall, in the city of St. Louis, in the county of St. Louis, and State of Missouri. And that nine days' notice should be given to the said Albert F. Lincoln, or his attorney, of such examination, to the end that he might, if he should see fit, be present at the examination and put interrogatories. And I having satisfactory proof that such notice had been given, and the said Robert Forsyth, on behalf of himself, and the said Lucien Dumain and Anthony R. Bovis appearing before me at my office in the City Hall, in the city of St. Louis, in the county of St. Louis, and State of Missouri, on this thirty-first day of May, A. D. eighteen hundred and forty-nine, I have therefore proceeded with the said examination.

And the said Felix Fontaine, being carefully examined and cautioned and duly sworn to testify the whole truth, and nothing but the truth, saith:—

Felix Fontaine's deposition.

I am sixty-five years old, and live in the city of St. Louis. I lived in the town of Peoria, in the Illinois, from the time I was fifteen years old until the year 1812. I know the family of Louis Le Boushier. Louis Le Boushier had killed himself a year or two before I went to Peoria. His family resided in the house in which he killed himself. The lot upon which the house stood was bounded on the south by Francois Wallette's lot, which afterwards belonged to me; and on the north by the lot of Louis Bennetti, afterwards owned by Antoine Bourbonné; and on the east by a street separating it from the lake or river. When I say north, I say up the river. The name of Le Boushier's widow was Josette Desmouchelle. Louis Le Boushier had three children by his wife Josette Desmouchelle; they were my close neighbors, and I know them well. I don't recollect the names of the boys; they died young; but the girl's name was Magdelaine; she is still alive; she first married Antoine Lassuse; her second husband was Joseph Touchette; they lived in St. Clair County, in the State of Illinois. Touchette has been dead some four or five years, and his widow has married a third time; the name of her present husband I do not know. I saw her about four or five months ago. The chil-

dren of Le Boushier were looked upon by the acquaintance of the family as his legitimate children. Le Boushier's widow married Hypolite Mallette. She is now dead. I know of nothing further that would be of advantage to either plaintiffs or defendant, and further deponent saith not.

his
FELIX + FONTAINE.
mark.

And the said Lissette Metté, being carefully examined and cautioned, and duly sworn to testify the whole truth, and nothing but the truth, says:

Lissette Metté's deposition.

I am seventy-one years old, and live in the city of St. Louis. I lived in Peoria, in the Illinois, about fifteen years; I left there in 1811. I knew Louis Le Boushier; he was our third-door neighbor. I recollect when he died. In the evening before he killed himself he told me he was going on a long journey, and asked me to make him a shirt; I did so; the next morning he was found dead in his house; he had on the shirt that I made for him; he had shot himself in the head. This happened on his own lot, which was bounded on the south by the lot of Francois Wallette, afterwards Felix Fontaine; and on the north by Louis Bennette, afterwards by Antoine Bourbonne; and on the east by a street separating it from the river or lake. I was well acquainted with the family of Louis Le Boushier; he had three children, two sons and one daughter. Le Boushier always recognized his children as legitimate. Their names were Louis or Louison, Paschal, and Magdelaine; the two boys died young, before they were grown up; Magdelaine married Antoine Lassuse; she married a second time to Joseph Touchette. I have heard that she married a third time, but I don't know the name of her husband. Louis Le Boushier's widow's name was Josette Desmouchelle. She married Hypolite Mallette. She has been dead many years ago. I was present at the birth of Magdelaine Le Boushier. Le Boushier and his wife lived together as man and wife, and were always recognized as legitimately married. I recollect nothing farther that would be of any advantage either to the plaintiffs or defendant, and further deponent saith not.

her
LISSETTE + METTE.
mark.

And I do further certify, that the preceding depositions were reduced to writing by me, and signed by the said Felix Fontaine, and Lissette Mette, in my presence on this thirty-first day of May, 1849, at my office in the city hall in the city of St. Louis, county of St. Louis, and State of Missouri, between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon of that day, and

that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of the city of St. Louis, this 31st day of May, A. D. 1849.

[SEAL.] JAMES G. BARRY,
Mayor of the city of St. Louis.

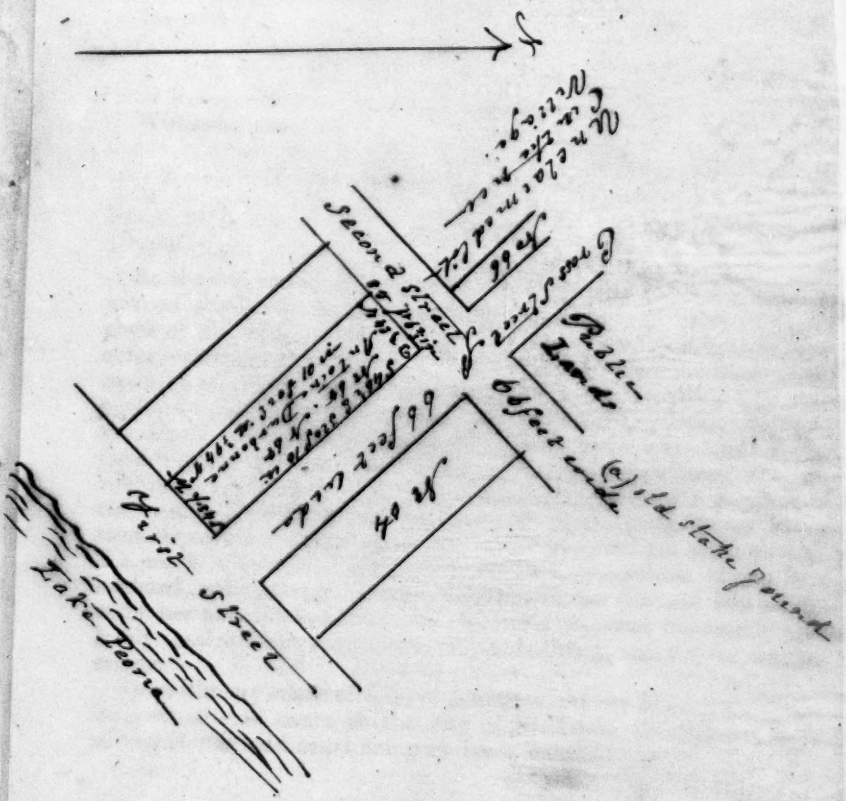
7th. A deed from Joseph Touchette and wife to the plaintiffs, which is as follows, viz:

Deed from Touchette and wife to defts.

This deed, made and concluded this eleventh day of December, in the year of our Lord eighteen hundred and thirty-six, by and between Joseph Touchette and Madeline, his wife, of the county of St. Clair, in the State of Illinois, of the one part; and Robert Forsyth, Anthony R. Bovis, and Lucien Dumain, of the city and county of St. Louis, State of Missouri, of the other part, witnesseth that the said Joseph Touchette, and Madeline, his wife, for and in consideration of the sum of three hundred dollars to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, delivered, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, convey, and confirm unto the said Robert Forsyth, Anthony R. Bovis, and Lucien Dumain, their heirs and assigns forever, all the lots and parcels of ground lying in the county of Peoria, State of Illinois, described as follows, to wit:—First, a lot in Peoria, containing about a half arpen, bounded northwardly by a lot formerly occupied by Louis Binet, eastwardly by a street separating it from the Illinois River, southwardly by a lot formerly occupied by Francois Willette, and eastwardly by a street, it being the same lot proved under an act of Congress entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois," approved the 15th of May, 1820, and claimed by Hypolite Maillet in right of his wife, Josette Desmouchelle, widow of Louis Le Boushier. Also an out lot containing about four arpents of land situate about half a mile west of the village of Peoria, being the same out lot or field claimed by said Maillet in right of his wife aforesaid, and proved under the act of Congress aforesaid; which two lots or parcels of land were confirmed by an act of Congress of 3d March, 1823, and belong to the said Madeline, one of the parties of the first part, as heir at law of the said Louis Le Boushier.

To have and to hold the said two lots or parcels of land with the appurtenances unto the said Robert Forsyth, Anthony R. Bovis, and Lucien Dumain, their heirs and assigns forever. And the said parties of the first part so covenant, promise, and agree with the parties of the second part, that the said parties of the first part the above described lots or parcels of ground unto the parties of the second part, will warrant and forever defend against all persons

No 185 — Ballance to Forsyth Jel — pa 68



Variation 8° East

Scale of one foot to one inch —

lawfully claiming or to claim from, by, through, or under the said parties of the first part or either of them. In testimony whereof the parties of the first part have set their hands and seals the day and year first aforesaid.

his
JOSEPH + TOUCHETTE. [SEAL.]
mark.

her
MAGDELAINE + TOUCHETTE. [SEAL.]
mark.

Witnesses present,
JOHN-BENT,
HENRY CHOUTEAU.

STATE OF MISSOURI, } ss.
County of St. Louis. }

Be it remembered that on this seventh day of December, in the year of our Lord eighteen hundred and thirty-six, before me, the clerk of the County Court within and for the county aforesaid, personally came Joseph Touchette and Magdalen, his wife, both personally known to me to be the real persons whose names are subscribed to the foregoing instrument of writing as having executed the same, and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned, she, the said Magdalen, being by me made acquainted with the contents of the said instrument of writing, and the same being by me examined, separate and apart from her husband, whether she executed the same voluntarily, freely, and without compulsion of her said husband, acknowledged upon such examination the said instrument to be her act and deed, that she executed the same voluntarily and freely, and without compulsion of her husband, and did not wish to retract.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of St. Louis, the day and year aforesaid, the said court being by law a court of record.

[SEAL.] HENRY CHOUTEAU,
Clerk.

STATE OF ILLINOIS,
Peoria County, Recorder's Office, April 15, 1837.

I, Charles Kettelle, recorder for said county, do hereby certify that the within deed was duly recorded at Peoria, in book G, pp. 623, 624.

In testimony whereof I have hereunto set my hand and affixed my private seal (no official being provided), the day and year above written.

CHARLES KETTELLE. [SEAL.]
R. P. C.

8th. A patent to Antoine Bourbonne for lot sixty-five (65), also covered by claim sixty-eight (68), which is as follows, viz.:

THE UNITED STATES OF AMERICA:

Patent to Bourbonne.

To all to whom these presents shall come greeting: Whereas, there has been deposited in the General Land Office a certificate numbered eighteen of the Register and Receiver of the Land Office at Edwardsville, Illinois, whereby it appears that in the report dated 10th November, 1820, of Edward Coles, Register of the Land Office at Edwardsville, Illinois, the claim of Antoine Bourbonne is entered as number sixty-five, and the claim of Louis Pencenneau to the same lot is entered at number sixty-eight. And whereas, it further appears from the certificate aforesaid that the said Antoine Bourbonne is the inhabitant or settler within the purview of the confirmatory Act of Congress, approved 3d March, 1823, entitled "An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of the said register and receiver that the said inhabitant or settler did not, prior to the said Act of 3d March, 1823, receive a confirmation of claims, or donation of any tract of land or village lot from the United States; and that the said Antoine Bourbonne, or his legal representatives, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot described as follows, to wit: The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by said claims, numbers sixty-five and sixty-eight in the south-east fractional quarter of fractional section nine, in township eight, north of range eight, east of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the Surveyor of the Public Lands in the States of Illinois and Missouri. And whereas, in the confirmatory Act aforesaid of the 3d March, 1823, it is provided that nothing in this act contained shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots, or any part of them derived from the United States, or any other source whatever, &c.

Now know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid, of the 3d March, 1823, there is granted by the United States, to the said Antoine Burbonne or to his legal representatives, and to his or their heirs, the lot of land above described, subject to the *proviso* aforesaid.

To have and to hold the said lot of land with the appurtenances unto the said Antoine Burbonne, or to his legal representatives, and to his or their heirs and assigns, forever subject to the *proviso* aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the general land office to be hereunto affixed.

Given under my hand, at the city of Washington, the sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-five, and of the Independence of the United States the seventieth.

[SEAL.] By the President JAMES K. POLK.

By J. KNOX WALKER, *Sec'y.*

S. H. LAUGHLIN,
Recorder of the General Land Office.

Recorded Vol III., pages 95 and 96.

9th. A separate plat of sect. 65, certified by the said surveyor, also duly proved, which is as follows, to wit:

Claim No. 65.

Situate in the south-east fractional quarter of fractional section nine, in fractional township eight, north of the base line, range eight, east of the fourth principal meridian.

Plat and description of the survey of a lot in the village of Peoria, in the State of Illinois, confirmed to Antoine Bourbonne by an act of Congress, approved the 3d of March, 1823, entitled "An act to confine certain claims to lots in the village of Peoria, in the State of Illinois." It being No. 65 of the report made by the Register of the Land Office at Edwardsville, in pursuance of an act of Congress, approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

(For plat, see original, page 63.)

DESCRIPTION.—Commence at a post in the N. W. edge of First Street, which post is the South corner of this lot, and the East corner of lot No. 47. Thence N. 46½, W. 320 feet 10 inches, to a post in the S. E. edge of Second Street, which post is the West corner of this lot, and North corner of lot No. 47. Thence with the south-east edge of Second Street, N. 43½, E. 85 feet 6 inches and ⅜ of an inch, to a post at the intersection of the S. E. edge of Second Street with the S. W. edge of the cross street A, which post is the North corner of this lot. Thence with the S. W. edge of the cross street A, S. 46½, E. 320 feet 10 inches, to a post at the intersection of the S. W. edge of the cross street A with the N. W. edge of First Street, which post is the East corner of this lot. Thence with the N. W. edge of First Street S. 43½, W. 85 feet 6 inches and ⅜ of an inch, to the place of beginning.

This lot contains 27,449 square feet and $\frac{7}{100}$th of a square foot of land, equal to 24,000 square feet French measure; and it is also confirmed to Lewis Bouran. (See claim No. 68, the survey of which is identical with this survey.)

Surveyed on the 2d of May, 1837, by Jos. C. Brown, Deputy

Surveyor, under instructions from Daniel Dunklin, Surveyor of Public Lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this 1st day of September, 1840.

[SEAL] WILLIAM MILBURN,

Surveyor of the Public Lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE,
St. Louis, 22d of July, 1847.

The foregoing plat and description of the survey of lot No. 65, of the village of Peoria, the caption and certificate thereto, are correctly copied from the record thereof, in Book "of" Records of Surveys "(in)" Peoria, Illinois, in this office.

F. R. CONWAY,

Surveyor of Public Lands in the States of Illinois and Missouri.

10th. A deed from said Bourbonne to the plaintiffs as follows, to wit:

"Know all men, that I, Antoine Bourbonne, of Portage des Sioux, in Missouri, for and in consideration of the sum of fifteen hundred dollars, to me in hand paid by Robert Forsyth, Antoine R. Bovis, and Lucien Dumain, of St. Louis, do hereby grant, sell, alien, enfeoff, confirm, and convey unto said Forsyth, Bovis, and Dumain, a lot of ground lying in Peoria, in the State of Illinois, eighty-three and a third feet in front more or less, by three hundred and twenty-one, more or less in depth, bounded northwardly by a street, southwardly by one Labossier, and in front by the River or Lake; also another lot of gound of the same size lying immediately back of the foregoing, there being a street between; also a piece of land lying about a quarter of a mile south-westwardly from said lots, containing five arpents more or less, adjoining towards the north Francois Racine, said lots and tract of land being the same proved in the name of said Bourbonné, under an act of Congress of May fifteenth, eighteen hundred and twenty, entitled "An Act for the relief of the Inhabitants of the village of Peoria, in the State of Illinois," and confirmed by act of March third, eighteen hundred and twenty-three. Also all my right, title, and interest in said claims, should the location at present made be wrong, wheresoever the same may be located, or however they may be altered. To have and to hold the same lots and land, and the same claims with all rights and privileges, and appurtenances thereto belonging unto them the said Forsyth, Bovis, and Dumain, their heirs and assigns, forever. And I covenant for myself, my heirs, and representatives, with the said Bovis, Forsyth and Dumain, their heirs and assigns, that I will forever warrant and defend said lots of ground, and tracts of land, and claims, and every part thereof unto them, said Bovis, Forsyth, and Dumain, their heirs and assigns, against all persons claiming or to claim, by, through, or under me.

In testimony whereof I have hereunto set my hand and seal, this sixteenth day of September, eighteen hundred and thirty-six.

his
ANTOINE + BOURBONNÉ. [L. S.]
mark.

Signed, sealed, and delivered in presence of
HENRY CHOUTEAU.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this seventeenth day of September, in the year of our Lord, eighteen hundred and thirty-six, before me, the clerk of the county court, within and for the county aforesaid, the same being by law a court of record, personally came Antoine Bourbonne, who was proved by Samuel Hart and Felix Fontaine, examined before me, on oath, to be the real person, whose name is subscribed to the foregoing instrument of writing, as having executed the same, and acknowledged the said instrument to be his free act and deed for the purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at the City of St. Louis, the day and year aforesaid.

[L. S.] HENRY CHOUTEAU, *Clerk.*

STATE OF ILLINOIS,
Peoria County, ss.

Recorder's Office, Peoria, October 1*st*, 1836.

I, Charles Kettelle, recorder, within and for the county aforesaid, do hereby certify that the within conveyance and certificate of proof was this day duly recorded in said office at Peoria, in book 9, pages 208 and 209.

In testimony whereof, I have hereunto set my hand and private seal (no official being provided), this 1st day of October, A. D. 1836.

[L. S.] CHARLES KETTELLE, *R. P. C.*

11th. A certified copy of the plat of Bigelow's and Underhill's addition to the town of Peoria, as follows, to wit:

(For plat, see original, page 67.)

STATE OF ILLINOIS,
Peoria County.

I, Charles Kettelle, Recorder of said county, do hereby certify that the foregoing is a true and perfect copy of the plat of Bigelow

and Underhill's addition to Peoria, Illinois, laid out and situated on the south-east fractional quarter of section 9, township 8, north 8, east 4th P. M. as recorded in my office.

Given under my hand and private seal, there being no official seal provided, this 9th day of June, 1847.

CHARLES KETTELLE, [L. S.]
R. P. Co.

12th. A plat of George C. McFadden, Surveyor of Peoria County, Illinois, which is appended hereto, marked B.

13th. The agreed statement of facts of the said plaintiffs by their attorneys and said defendant, which is as follows, viz:

ROBERT FORSYTH and others
vs.
STINSON A. GOUDY. } In the United States Circuit Court.

SAME
vs.
ALBERT F. LINCOLN. } Ejectment.

It is agreed that Charles Ballanee be made defendant in place of said Lincoln, he being tenant of said premises, and that said Ballanee admits himself to have been and still to be in possession of lot No. 47, and 65—68, described in the declaration, except lot No. 10, in block 34, in Bigelow and Underhill's addition to Peoria, at the time of the commencement of this suit.

The same agreed case that occurs on a former page.

It is further agreed that said Ballanee was in possession of that portion of said premises covered by lots one and two in block 51, in said addition, more than seven years before the commencement of this suit, by actual residence with his family thereon up to 1845, and from that time by his tenants, and that portion of said premises north-west of Water street, in said addition, said Ballanee was possessed more than seven years in manner following, to wit: by enclosure and cultivation of the same as a garden, said Ballanee residing south-east of said street.

It is further agreed, that J. L. Bogardus in 1832 was in possession of the south-east quarter of section 9, I. 8 N. R. 8 east of the 4th principal meridian, and continued in possession thereof until 1834, when Isaac Underhill went into possession of said quarter section under said Bogardus, and said Ballanee was in possession of said premises in dispute under claim of title derived from said Bogardus, the manner of such possession of said Bogardus and Underhill was by having tenants residing on portion of said quarter section and exercising a ferry franchise thereon, claiming a right of possession to the whole quarter section—neither of them, however, residing or having tenants on the premises in dispute except as above stated.

It is further agreed, that said Bigelow and Underhill's addition is

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laid out on the said quarter section, and a certified copy of said plat is hereby referred to and may be read by either party on the trial of this cause, the same being certified by Charles Kettelle, Recorder of Peoria County, Illinois, in which county said land lies.

It is further agreed, that either party may read as evidence the report of Edward Coles, Register of the land office at Edwardsville, Illinois, dated Nov. 10th, 1820, from the 3d vol. of American State papers, printed by Duff Green, by authority of Congress, and the same shall have the same force and effect as the original report if the same were produced.

It is further agreed, that said suits be consolidated and tried in one action. Any of the above facts shall be disregarded by the court if deemed incompetent evidence by the court, and either party may produce and offer any further competent and material evidence not inconsistent with the facts above admitted.

The above facts are admitted for the purposes of this trial, and upon the understanding that this agreement is not a waiver of the production of title papers by the respective parties.

H. O. MERRIMAN,
Attorney for plaintiffs.

C. BALLANEE,
For self.

June 21, 1849.

The plaintiffs here rested their case.

The defendant then moved the court severally to exclude all the evidence in relation to lots forty-seven and sixty-five, both of which motions were overruled by the court, and defendant excepted.

1st. The defendant then offered to read, and did read, subject to objections, a certificate of purchase, signed by Samuel Leech, as follows, viz:

LAND OFFICE, *Quincy, Illinois.*
15*th November*, 1837.

Leech's certificate. It is hereby certified that John L. Bogardus, of New York, did this day enter or purchase the south-east fractional quarter of section number nine, in township number eight, north of range number eight, east of the fourth principal meridian, containing twenty-three $\frac{93}{100}$ths acres, as appears of record in this office.

SAMUEL LEECH, *Register.*

2d. A deed from John L. Bogardus to Isaac Underhill, for the south-east quarter of section nine, town. eight, north in range number eight, east of the fourth principal meridian, which is as follows, viz:

"Know all men by these presents, that I, John L. Bogardus, of Peoria, in the county of Peoria, and State of Illinois, in consideration of one thousand and fifty dollars, to me in hand paid by Isaac Underhill, of said Peoria, the receipt whereof I do hereby acknowledge, do hereby grant, sell, and convey unto said Underhill all my right and interest in and unto the south-east fractional quarter of section nine, in township eight, north, range eight, east of the fourth principal meridian in said Illinois, and also in and unto the ferry established across the Illinois river, in said Peoria, together with all the boats and other implements thereunto belonging. To have and to hold the same to the said Isaac Underhill, his heirs and assigns forever, with all the privileges and appurtenances thereunto belonging.

In witness whereof I have hereunto set my hand and seal, this fifth day of August, A. D. 1834.

JOHN L. BOGARDUS.

Signed, sealed, and delivered in presence of
ORIN HAMLIN.

STATE OF ILLINOIS,
Peoria County, ss.

This day personally appeared before the undersigned, an acting Justice of the Peace in and for Peoria county, John L. Bogardus, who being personally known to me to be the same person, and acknowledged the within to be his act and deed for the uses and purposes therein contained.

Given under my hand and seal, this fifth day of August, one thousand eight hundred and thirty-four.

[SEAL.] ORIN HAMLIN, *J. P.*

STATE OF ILLINOIS,
Peoria County.

Recorder's Office.

I, Charles Kettelle, Recorder of said county, do certify the foregoing is a true copy from the records of said office, as appears of record in said office.

Given under my hand and private seal (no official being provided), this eighteenth day of June, A. D. 1849.

[SEAL.] CHARLES KETTELLE,
Recorder P. Co.

3d. Two deeds from Isaac Underhill to said Ballanee, as follows, viz:—

Underhill's deed for lots 78 & 79, in block 37.

This deed, made this seventh day of July, eighteen hundred and forty-one, witnesseth: That Isaac Underhill and Jane S. Underhill, his wife, of the town of Peoria, county of Peoria, State of Illinois, in consideration of one thousand dollars, to them paid by Charles Ballanee,

of the county of Peoria, State of Illinois, the receipt of which is hereby acknowledged, do by these presents grant, bargain, sell, convey, and confirm to the said Charles Ballanee the following described real estate, viz., Lots No. eight (8), nine (9), and seven (7), in block No. thirty-four (34), and lots No. five (5) and six (6) in block No. thirty-eight (38), in Bigelow & Underhill's addition to Peoria as laid off in 1836, reference being had to plat in Recorder's Office at Peoria.

To have and to hold the afore-described premises, with the appurtenances thereunto belonging, to the said Charles Ballanee, his heirs and assigns, forever; the said Isaac Underhill and Jane S. Underhill hereby covenanting, that they will warrant and defend the title to the aforesaid premises to the said Charles Ballanee, his heirs and assigns, forever, against all persons claiming by, through, or under said Isaac Underhill, John S. Bogardus, Lewis Bigelow, or either of them, and none others whomsoever.

In testimony whereof the said Isaac and Jane S. Underhill have hereunto set their hands and seals the day and year above written.

ISAAC UNDERHILL, [SEAL.]
JANE S. UNDERHILL. [SEAL.]

Done in presence of
DENNIS BLAKELY.

STATE OF ILLINOIS,
County of Peoria, ss.

I, Dennis Blakely, an acting Justice of the Peace within and for the county aforesaid, do certify that Isaac Underhill and Jane S., his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in and who executed the same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned. And the said Jane S. Underhill having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she executed the same, and relinquished her dower to the premises therein conveyed, voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal this seventh day of July, in the year of our Lord one thousand eight hundred and forty-one.

DENNIS BLAKELY, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of Peoria.

Recorder's Office, Peoria, July 7, 1841.

I, Charles Kettelle, Recorder of said County of Peoria, do hereby certify the foregoing deed and certificate of proof are duly recorded in said office in book M, p. 81, on this 7th day of July, A. D. 1841.

CHARLES KETTELLE,
R. P. Co.

Underhill's deed to Ballanee to lot 3 in B. 51.

This deed, made this 1st day of February, 1842, between Isaac Underhill and Jane S., his wife, of the first part, and Charles Ballanee of the second part, Witnesseth, that the said parties of the first part for and in consideration of the sum of three hundred dollars, the receipt whereof is hereby acknowledged, have granted, bargained sold, and quit claimed, and by these presents do grant, bargain, sell, and quit claim unto the said Charles Ballanee, his heirs and assigns, lot numbered three in block numbered fifty-one (51), according to Bigelow and Underhill's addition to the town of Peoria, reference being had thereto, as the same appears upon record in the Recorder's Office in the County of Peoria, together with all the appurtenances thereunto belonging, or in any wise appertaining. To have and to hold the same to the said Charles Ballanee, his heirs and assigns, for his and their own proper use and behoof forever. And the said parties of the first part, for themselves, their heirs, executors, and administrators the aforesaid lot of ground and appurtenances to the said Charles Ballanee, his heirs and assigns, against the claims of themselves, and all persons claiming through or under them, or either of them, and against the claims of John L. Bogardus and Lewis Bigelow, and all persons claiming by, through, or under them, or either of them, do and will warrant and forever defend by these presents.

Witness our hands and seals the day and year aforesaid.

ISAAC UNDERHILL, [SEAL.]
JANE S. UNDERHILL. [SEAL.]

STATE OF ILLINOIS,
Peoria County, ss.

I, Geo. B. Parker, an acting Justice of the Peace in and for the county, do certify that on this day appeared before me, Isaac Underhill and Jane S. Underhill, his wife, whose names appear signed to the foregoing deed of conveyance, and who are personally known to me to be the identical persons whose names are subscribed to said deed, as having executed the same, and acknowledge that they had executed the same as their voluntary act and deed for the uses and purposes therein expressed. And Jane S., the wife of the said Isaac Underhill, having been by me made acquainted with the contents of said deed, and being by me examined separate and apart from her husband, acknowledged that she executed the same and relinquished her dower to the premises therein conveyed, voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal at Peoria, this 28th day of March, 1842.

GEO. B. PARKER, [SEAL.]
Justice of the Peace.

STATE OF ILLINOIS,
County of Peoria.

I, Charles Kettelle, Recorder of said County, do hereby certify

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the within deed is duly recorded in said office, in book P, pp. 356 and 357, on this 7th day of July, A. D. 1845.

CHARLES KETTELLE,
R. P. C.

4th. Certified copies of proceedings in relation to a sale of S. W. and S. E. quarters of said section for taxes, one certified by the Clerk of the Circuit Court of Peoria County, and the other by the Clerk of the County Commissioners of said County, which were read subject to exceptions, and are as follows, to wit:

Proceedings in the County Commissioners' Court.

"Proceedings of the County Commissioners' Court within and for the County of Peoria, in the State of Illinois, began and held at the court-house in the town of Peoria, on Monday the sixth day of March, in the year of our Lord one thousand eight hundred and forty-three.

Present, Nathaniel Chapin, Thomas P. Smith, and Clementius Ewalt, County Commissioners; Smith Frye, Sheriff; William Mitchell, Clerk.

Be it remembered, that heretofore, to wit, on the eleventh day of March, in the year of our Lord one thousand eight hundred and forty-three, as yet of the March Term aforesaid, of the County Commissioners' Court of the County of Peoria, in the State of Illinois, the following order was made, to wit:

"Ordered, that a road tax of ten cents upon every hundred dollars' worth of real taxable property be assessed for the year 1843.

And afterwards, to wit: on the day and year aforesaid, the following orders were made and entered in said court, to wit:

"Ordered, that Samuel Dimms be and he hereby is appointed assessor of taxable property in the County of Peoria for the year 1843.

"Ordered, that Julius A. Johnson be and he is hereby appointed collector of taxes in the County of Peoria for the year 1843."

And afterwards, to wit, on the twenty-ninth day of March, in the year last aforesaid, the clerk of the said court caused to be delivered to the said assessor a transcript of lands lying in said county subject to taxation for the year 1843, in the following form, to wit:

"List of lands lying in the County of Peoria, and State of Illinois, subject to taxation for the year 1843."

Patentees and Names of Purchasers.	Present owners.	Description.			Acres.
* * * * *	* *	* * *	*	*	
(S.E.) (S.W.) John L. Bogardus & Charles Ballanee		pt. S.E. & S.W. 9	8 N.	8 E.	150

Which said list was certified by said clerk as follows, to wit:

STATE OF ILLINOIS,
Peoria County.

I, William Mitchell, Clerk of the County Commissioners' Court within and for the said county, do hereby certify, that the within list contains an abstract of all the lands lying in the County of Peoria subject to taxation for the year 1843, with the names of the purchasers from the United States, and from this State, and the present owners where the same are known, as appears of record in my office.

Given under my hand and seal of said county at Peoria this 29th day of March, A. D. 1843.

[SEAL.] WILLIAM MITCHELL,
Clerk.

And afterwards, to wit: on the first day of April, in the year last aforesaid, the said Samuel Dimon filed in the office of the clerk of said court, the oath taken by him as assessor in the words and figures following, to wit:

STATE OF ILLINOIS,
Peoria County, ss.

I, Samuel Dimon, do solemnly swear that I will faithfully and impartially perform the duties required of me as assessor of taxable property in the County of Peoria according to the best of my skill and judgment; and I do also solemnly swear, particularly, that I will, in no instance, value any land at three dollars per acre that I in my conscience believe to be worth more.

SAMUEL DIMON.

Subscribed and sworn to, before me, this first day of April, A. D. 1843.

THOMAS BRYANT,
Justice of the Peace.

And afterwards, to wit: at a term of the said County Commissioners' Court, began and held at the court-house in the town of Peoria, within and for said County of Peoria, on the fifth day of June, in the year of our Lord one thousand eight hundred and forty-three, present, Nathaniel Chapin, Thomas P. Smith, and Clementius Ewalt, County Commissioners, on the ninth day of said month of June, as yet of the term aforesaid, the following order was made, in the words and figures as follows, to wit:

"Ordered, that a tax of fifty cents be levied upon every hundred dollars of real and personal property for the year 1843; and that ten cents of the same be appropriated for road purposes."

And afterwards, to wit: on the twentieth day of July, in the year last aforesaid, the said assessor returned into the clerk's office

of the court aforesaid the abstract of lands furnished him by said clerk, and a list containing a description of all the taxable property within the said county, with the names of the owners, and the value of the same, which said list is in the following form, to wit:

"8 N. 8 E."

Patentee.	Present owner.	Description.	Names.	Value per acre.	Total.	State tax.	County tax.	Road tax.
	Charles Ballanee.	S. E. & S. W. 9.	150	20	3,000	6	12	3

And afterwards, to wit: on the fourth day of September, in the year last aforesaid, being of the September term of the said court, present the same County Commissioners as before, the said Julius A. Johnson produced in open court an official bond as collector of said county in the sum of twenty-eight thousand dollars, payable and conditioned according to law, with security approved by said court, which said bond was duly entered of record in said court, and transmitted to the office of the Secretary of State at Springfield, Illinois, by mail, and on which said bond was endorsed on oath as follows, to wit: "I, Julius A. Johnson, Collector of the County of Peoria, in the State of Illinois, do solemnly swear that I will faithfully, diligently, and impartially, and to the best of my judgment, perform the duties required of me by law as collector for the said County of Peoria.

JULIUS A. JOHNSON.

Sworn to and subscribed before me, this 24th day of August, 1843.

WILLIAM J. PHELPS,
Justice of the Peace.

And afterwards, to wit: on the fifth day of September, in the year last aforesaid, the Clerk of the County Commissioners' Court aforesaid made out and delivered to the said collector a true copy of the assessor's book aforesaid for collection, and the said collector executed duplicate receipts therefor, as required by law.

And afterwards, to wit: At a sale of lands and town lots in Peoria county, sold on the ninth day of June, A. D. 1845, for taxes and costs due the State of Illinois, and county of Peoria, for the year 1843, the following described tracts of land were offered and sold, as appears from the sale book, which is in the following form, to wit:—

Names of purchasers.	Residence.	Acres offered.	Description.			Acres sold.	Taxes and costs.		Date entered.	By whom received.	Receipt.	Amount received.
	Peoria County.			8 N.	8 E.							
Chas. Ballanee.	do.	150	S.W. & S.E. 9	8 N.	8 E.	1	21	40				

I, William Mitchell, Clerk of the County Commissioners' Court, within and for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is truly and correctly taken and copied from the records and proceedings in my office.

Given under my hand and seal of said court, at Peoria, this 27th day of December, A. D. 1848.

[SEAL.] WILLIAM MITCHELL,
Clerk.

Be it remembered that heretofore, to wit: on the twenty-sixth day of May, A. D. 1845, there was filed with the Clerk of the Circuit Court of Peoria County, in the State of Illinois, a report to said court, and certificate of publication thereof, by the collector of taxes for the year 1843, for said county, which said report and certificate as it remains placed at the head of the common law docket, for the May term, A. D. 1845, of said court, is as follows, to wit:—

STATE OF ILLINOIS
vs.
SUIT FOR TAXES.

List of lands and other real estate, situated in the county of Peoria, and State of Illinois, on which taxes remain due and unpaid for the year 1843.

Present owner.	Description.	No. of acres.	Valuation.	Tax.	
	8 N. 8 E.		$	$	
	S.W. & S.E. 9	150	3000	21	00

☞ The costs on each of the above tracts of land and town lots, and part town lots already accrued, is 10 cents.

Notice is hereby given, that application will be made to the Circuit Court of Peoria County, at the next term thereof, to be holden at the Court-House in the town of Peoria, within and for the county of Peoria and State of Illinois, on the fourth Monday of May next,

for a judgment against the lands and town lots above enumerated, for the taxes and costs due thereon for the year 1843; and for an order to sell the lands and town lots for the satisfaction thereof; and all such lands and town lots against which judgment shall be pronounced, will be exposed to public sale at the Court-House of said county, on the second Monday next succeeding the said term of the said court, for the amount of taxes and costs due thereon for the year 1843.

JULIUS A. JOHNSON,
Collector for the year 1843.

Peoria, Feb. 12, 1845.

We hereby certify that the foregoing was duly published on the 12th of February, 1845, in the Peoria Democratic Press, published in Peoria, Peoria county, Illinois, and that the number of transcripts so published corresponds with the number of newspapers printed and distributed for that week.

ZEIBER & SLOAN.

STATE OF ILLINOIS,
Peoria County.

I, J. A. Johnson, Collector of said county for the year 1843, do hereby certify that the above tracts and parts of tracts of land and town lots were assessed for taxes in said county, for state and county purposes, for the year 1843. And that the taxes and costs thereon remained due and unpaid; and that the respective owner or owners have no goods and chattels within my county on which I can levy for the taxes, interest, and costs due and unpaid on the same.

Given under my hand, this 26th day of May, 1845.

J. A. JOHNSON,
Collector Peoria County for 1843.

And afterwards, at the same term of said court, the following proceedings were had therein on said report and certificate, to wit:

"At a Circuit Court, begun and held at the Court-House in the town of Peoria, in and for the County of Peoria and State of Illinois, on Monday, the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and forty-five, present the honorable John Dean Caton, Associate Justice of the Supreme Court of the State of Illinois, assigned to perform the duties of Judge of the Ninth Judicial Circuit.

STATE OF ILLINOIS, } *ss.*
Peoria County, }

Whereas, Julius A. Johnson, Collector of said county, returned to the Circuit Court of said county, on the twenty-sixth day of May, A. D. 1845, the following tracts and parts of tracts of land as

having been assessed by the assessor of the said County of Peoria for the year 1843; and that the taxes thereon remained due and unpaid on the day of the date of the said collector's return; and that the respective owner or owners have no goods and chattels within his county on which the said collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit:—

Description.	No. of Acres.	Tax.	Costs.
S. W. & S. E. 9.—T. 8 N. 8 E.	150	$ 21.00	$ .40

And whereas, due notice has been given of the intended application for a judgment against said lands for the taxes, interest, and costs due and unpaid thereon for the year herein set forth, therefore it is considered by the court that a judgment be and is hereby entered against the aforesaid tracts of lands, and parts of tracts, in the name of the State of Illinois, for the sum annexed to each tract or parcel of land, being the amount of taxes, interest, and costs due severally thereon. And it is ordered by the court that the said several tracts of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

And afterwards, on the seventh day of June, A. D. 1845, there was issued to the Sheriff of Peoria County a precept, by the clerk of said court, under the seal thereof, which, with the return of the said sheriff thereto is as follows, to wit:—

The people of Illinois to the Sheriff of Peoria County, greeting:—

Peoria County, Set.

Whereas, Julius A. Johnson, Collector of said County, returned to the Circuit Court of said county on the twenty-sixth day of May, A.D. 1845, the following tracts and parts of tracts of land as having been assessed for taxes, by the assessor of said County of Peoria, for the year 1843, and that the taxes thereon remained due and unpaid on the day of the said collector's return, and that the respective owner or owners have no goods and chattels within his county on which the said collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit:—

Description.	No. of Acres.	Tax.	Costs.
S. W. & S. E. 9—T. 8 N. 8 E.	150.	$ 21.00	$ .40

And whereas due notice has been given of the intended application for a judgment against said lands, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands, for the taxes, interest, and costs due and unpaid thereon for the year herein set forth; therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tracts of lands and parts of tracts, in the name of the State of Illinois, for the sum annexed to each tract or parcel of land, being the amount of taxes, interest, and costs due severally thereon; and it is ordered by the court that the said several tracts of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

I, Jacob Gale, Clerk of the Circuit Court within and for the County of Peoria, in the State of Illinois, do hereby certify that the foregoing is a true and perfect copy of an order of the said court, made at the May term thereof, A. D. 1845.

In witness whereof I hereunto set my hand and the seal of said court, this seventh day of June, in the year of our Lord one thousand eight hundred and forty-five.

JACOB GALE,
Clerk.

[SEAL.]

STATE OF ILLINOIS,
County of Peoria, ss.

By virtue of the foregoing process, I did, with the assistance of the Clerk of the County Commissioners' Court, of said county, by his deputy, attend at the Court House in the town of Peoria, in said county, on the ninth day of June, A. D. 1845, between the hours of ten o'clock in the forenoon and three o'clock in the afternoon, and sold each lot or parcel of land described in the foregoing list, at public auction, in the order the same are therein described, by proclaiming the whole lot or parcel of land in each case, with the amount of taxes and costs due thereon; and severally striking them off to the person or persons who would pay the amount due on each parcel of land for the least number of acres, or least quantity thereof. The said clerk kept a register of said sales, in which was entered each lot or parcel of land sold by me as aforesaid, the name of the purchaser or purchasers, his or their place of residence, and the quantity of land sold. Dated June 20th, 1845.

SMITH FRYE,
Sheriff.

STATE OF ILLINOIS,
Peoria County, ss.

I, Jacob Gale, Clerk of the Circuit Court within and for said county, do hereby certify that the foregoing is a correct transcript

from the proceedings and records of said court, in relation to taxable lands as to S. E. and S. W. nine, township eight North, eight East, as the same remains of record and on file in my office.

In testimony whereof I hereunto set my hand and affix the seal of said court at Peoria, this fourth day of December, A. D. 1848.

[SEAL.] JACOB GALE,
Clerk.

5th. Defendant offered to read a deed from the Sheriff of Peoria County, on said tax sale to Charles Ballanee, covering a part of lot No. 65. The plaintiffs objected to the introduction of said deed as evidence, on the ground that the sale was contrary to law, and so appeared from the records aforesaid and said deed, and the court sustained such objection, and refused to permit said deed to be read in evidence, and defendant excepted. Said deed is as follows, to wit:

Know all men by these presents, that whereas, at the May term, 1845, of the Circuit Court of Peoria County, a judgment was obtained in said court, in favor of the State of Illinois, against the southwest and southeast fractional quarter of section number nine, of township eight, north in range eight, east, situated in the County of Peoria, and State of Illinois, for the sum of twenty-one dollars and forty cents, being the amount of taxes, interest, and costs assessed upon the said tract of land for the year 1843; and whereas, on the 9th day of June, 1845, I, Smith Frye, then sheriff of the county aforesaid, by virtue of a precept issued out of the Circuit Court of the county aforesaid, dated the seventh day of June, 1845, and to me directed, did expose to public sale, at the door of the Court-House in the county aforesaid, in conformity with all the requisitions of the statute in such case made and provided, the tract of land above described for the satisfaction of the judgment so rendered as aforesaid; and whereas, at the time and place aforesaid, Charles Ballance, of the County of Peoria, and State of Illinois, having offered to pay the aforesaid sum of twenty-one dollars and forty cents for one acre off of the east side of the said quarters of said section number nine, which was the least quantity bid for, the said tract of land was stricken off to him at that price; now, therefore, I, Smith Frye, late sheriff as aforesaid, for and in consideration of the sum of twenty-one dollars and forty cents, to me in hand paid by the said Charles Ballanee, at the time of the aforesaid sale, and by virtue of the statute in such case made and provided, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said Charles Ballanee, his heirs and assigns, the said one acre of land off of the east side of the southwest and southeast fractional quarters of section number nine of township eight, north in range eight east, situated in the County of Peoria and State of Illinois, to have and to hold unto him, the said Charles Ballanee, his heirs and assigns forever, subject, however, to all the rights of redemption provided by law.

In witness whereof, I, Smith Frye, sheriff as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal this 16th day of June, 1847.

SMITH FRYE, [L. S.]
Sheriff.

STATE OF ILLINOIS,
Peoria County, ss.

Be it known, that on the day of the date hereof, personally appeared before me, Jacob Gale, Clerk of the Circuit Court within and for said county, Smith Frye, personally known to me to be the real person whose name appears subscribed to the foregoing deed of conveyance, as having executed the same in the capacity of sheriff of said county, and acknowledged the execution thereof to be his free act and deed for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and the seal of said court at Peoria this 16th day of June, A. D. 1847.

[SEAL.] JACOB GALE,
Clerk.

6th. The submission and award made between said Ballanee and Bigelow Underhill, as follows, viz:—

Whereas, Lewis Bigelow and Isaac Underhill claim a right of pre-emption to the south-east quarter of section nine, in township eight, north of range eight, east of the fourth principal meridian, under John L. Bogardus, and have divers improvements thereon, and Charles Ballanee claims the same under purchase made from William R. Swiniston and Abagail Waters, and has likewise several houses and other improvements thereon; and several suits have grown out of said controversy, to wit: an action of trespass by said Ballard against said Underhill and George Dupree, which suit is now pending in the Supreme Court of Illinois, and an action of forcible entry and detainer, commenced in Peoria, and carried by change of venue to Putnam, and now pending in Taswell.

Now, therefore, these articles of agreement witness that said Bigelow, Underhill and Ballanee, for and in consideration of the premises, covenant and agree as follows, to wit: Said Ballanee agrees to withdraw his objection to the entry of said land by said Underhill and Bigelow, in the name of said Bogardus; and all of said parties agree that Dan Stone, John Ewalt, and George B. Parker shall act as arbitrators in the premises, and decide what is just and equitable, both with regard to the cost of said suit and the land likewise; and it is hereby respectively agreed between said parties, that whatever decision the said arbitrators shall make with regard to said costs, we will abide by, and severally pay; and whatever portion or division of said land (if any) said arbitrators shall adjudge to said Ballanee, the said Bigelow and Underhill, for the the considerations aforesaid,

and for the further consideration of one dollar to them in hand paid, the receipt whereof is hereby acknowledged, do covenant and agree to convey to said Ballard, his heirs and assigns, by a good and sufficient deed containing covenants, warranting the title thereof to said Ballanee, his heirs and assigns, against the said Bigelow and Underhill, and all persons claiming through or under them, or either of them, and no other persons whomsoever.

It is further agreed between the parties aforesaid, that if either of said arbitrators shall die, or refuse to act, then either of the parties aforesaid shall appoint a time on which we will meet and appoint another, who shall be clothed with all the powers of the one so dying or refusing to act. We also agree to refer to said arbitrators any suit or suits, either in law or equity, which have been or may be commenced on certain covenants between said Bogardus and Ballanee respecting said land, dated in February, 1834.

It is further agreed that all parties shall remain in possession of so much of said land as he or they are now in possession until the award of said arbitrators shall be made, and then yield possession accordingly. Provided, that said award shall not be unreasonably delayed by the fault of either of said parties.

Signed and sealed this 15th day of November, 1837.

C. BALLANEE, [SEAL.]
ISAAC UNDERHILL, [SEAL.]
LEWIS BINGELOW. [SEAL.]

Pursuant to this foregoing and annexed agreement of submission written, undersigned Daniel Stone, John Ewalt, and George B. Parker met at the *Court House* at the town of Peoria and County of Peoria, State of Illinois, on the eighth day of February, in the year A. D. 1838, the parties to said submission, to wit: Lewis Bigelow, Isaac Underhill (by Wm. Fusby, his attorney), and Charles Ballanee, being present, and proceeded to hear the proofs, exhibits, and testimony of witnesses of the respective parties, and the law and agreements submitted by each, adjourning from day to day until the tenth day of said month, and having considered of the testimony and agreements submitted to us by each of said parties, we do here now award and adjudge, that the said Isaac Underhill and Lewis Bigelow shall, within thirty days from the date of this award, make, execute, and deliver to the said Charles Ballanee a good and sufficient deed in fee simple, with a covenant of warranty, saving and excepting any French claimant or French claim as so known and understood in said Peoria, to lots numbered one and two, as described and numbered on the plat and map of Bigelow and Underhill's addition to Peoria, being a part of the south-east quarter of section nine, in township eight, north of range eight, east of the fourth principal meridian, described in said submission.

And we do further award and adjudge that the said Charles Ballanee shall within the period of thirty days from the date of the

award, make, execute, and deliver to the said Bigelow and Underhill a good and sufficient deed of quit claim, releasing, surmising, and forever quit claiming to them, their heirs and assigns, the whole of the said south-east fractional quarter of section nine aforesaid, except the said lots one and two, before mentioned, and excepting also such lot or lots, or part of lots, which the said Ballanee may have heretofore in good faith sold and conveyed, or by bond heretofore executed, covenanted and bound himself to convey, and we do further award that the said Ballanee for all sales of any part of said fractional quarter section he may have thus heretofore made, shall, within six months from the date hereof, pay or cause to be paid to the said Bigelow and Underhill all moneys he may have received, or may receive, as a consideration for such sale or sales, and also transfer, assign and deliver over to said Bingelow and Underhill, all notes, bonds, mortgages, assurances, and all personal property of every kind which he may have received, or may receive, upon, for, or on account of any sales of any parts of said fractional quarter section; and we do further award and adjudge that the said Ballanee shall within sixty days from this date *discontinue* and *dismiss* his action of trespass against the said Isaac Underhill and George Dupee, now pending in the Supreme Court of the State, and pay all costs of said suit, and that the said Ballanee shall pay all costs of the suits for forcible entry and detainer now pending in the Circuit Court for the County of Tazwell, within *sixty days* from the date hereof, upon the said Bigelow and Underhill discontinuing said suit.

And we do further award, that within thirty days from the date of this award the said Ballanee shall give to the said Bigelow and Underhill, and put them in peaceable possession of all and every part of said fractional quarter section nine, except the said lots numbered one and two as aforesaid.

In witness whereof we have hereunto set our hands and seals this the tenth day of February, A. D. 1838.

DAN. STONE. [SEAL.]
JOHN EWALT. [SEAL.]
GEORGE B. PARKER. [SEAL.]

7th. The certificate of William Pope, Clerk, of copies of certain papers, was read subject to objections, part of which certificate is as follows, viz:

Documents admitted without objections on the certificate of the clerk.

Alexander's certificate.

LAND OFFICE, QUINCY, ILLINOIS,
November 17*th*, 1832.

SIR,

Yours of the 31st ultimo was duly received, and in reply thereto, I have to say that your proof of a prevention has been duly received

previous to the 5th October, partly by Mr. Bigelow and partly by mail, which were adjudged in this office to be sufficient.

Very respectfully,
Your humble and obedient servant,
SAMUEL ALEXANDER.

JOHN L. BOGARDUS, ESQ.

S. Alexander's certificate.

LAND OFFICE, QUINCY,
January 4th, 1833.

I hereby certify, that on the 4th day of August, 1832, John L. Bogardus, of Peoria, in the State of Illinois, filed in this office evidence of his right of pre-emption to the south-east fractional quarter of section nine, in township eight, north range eight, east of the fourth principal meridian, under the act of Congress of April 5th, 1832.

SAMUEL ALEXANDER,
Register.

GENERAL LAND OFFICE,
6th September, 1837.

I hereby certify, that the above are true copies of two documents filed in this office by King and Wilson, Land agents, Washington city, in their letter of September 2d, 1837, in which an application is made by them in behalf of the said John L. Bogardus. In testimony whereof I have hereunto set my name and caused the seal of the General Land Office to be affixed, the day and date last above written.

[SEAL.] JAMES WHITCOMB,
Commr.

LAND OFFICE, QUINCY, ILLINOIS,
15th November, 1837.

It is hereby certified that John L. Bogardus, at New York, did this day enter or purchase the south-east fractional quarter of section No. 9, in township No. eight, north of range No. eight, east of the 4th principal meridian, containing twenty-three $\frac{93}{100}$ acres, as appears of record in this office.

SAMUEL LEECH,
Register.

I, William Pope, Clerk of the Circuit Court of the United States of America, for the District of Illinois, do certify that the above are true and correct copies of the deeds and certificates used in evidence by the defendants in the case of Benjamin F. Morgan against Cartenus and Griswold in ejectment.

In testimony whereof, I have hereunto affixed the seal of said court and subscribed my name this 24th day of August, A. D. 1848, and of our Independence the 73d year.

[SEAL.] WM. POPE,
Clerk.

8th. An exemplified copy of the patent to John L. Bogardus of said south-east quarter section, as follows, viz:

Certificate No. 13,258. The United States of America, to all to whom these presents shall come, greeting: Whereas, John L. Bogardus, of New York County, New York, has deposited in the General Land Office of the United States a certificate of the register of Land Office at Quincy, whereby it appears that full payment has been made by the said John L. Bogardus according to the provision of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the public lands" for the south-east fractional quarter of section nine, in township eight, north of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing twenty-three acres and ninety-three hundredths of an acre, according to the official plat of the survey of the lands returned to the General Land Office by the Surveyor-General, which said tract has been purchased by the said John L. Bogardus. Now know ye, That the United States of America, in consideration of the premises and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said John L. Bogardus, and to his heirs, the said tract above described, to have and to hold the same, together with all and singular the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging unto the said John L. Bogardus, and to his heirs and assigns forever, subject, however, to all the rights of any and all persons claiming under the Act of Congress of 3d March, 1823, entitled "An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois." In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the fifth day of January, in the year of our Lord one thousaud eight hundred and thirty-eight, and of the Independence of the United States the sixty-second.

[SEAL.] MARTIN VAN BUREN.
By A. VAN BUREN,
P. Secretary.
H. M. GARLAND,
Recorder of the General Land Office.

Recorded Vol. I., p. 149. Ex. by the President.

STATE OF ILLINOIS,
County of Peoria, Recorder's Office.

I, Charles Kettelle, Recorder of said county, do hereby certify the within or foregoing is a true copy of the patent from the United States to John L. Bogardus, as appears of record in said office in Vol. O, page 137.

Witness my hand and private seal (no official being yet provided) this 19th day of June, A. D. 1849.

CHARLES KETTELLE, [SEAL.]
Recorder P. Co.

Defendant here rested his case.

The plaintiffs then read in evidence an exemplified copy of the original certificate of entry of said Bogardus of said quarter section, as follows, to wit:

No. 13,258. *Land Office at Quincy, Illinois, Nov.* 15, 1837.

It is hereby certified that, in pursuance of law, John L. Bogardus, New York County, State of New York, on this day purchased of the Register of this office the lot or south-east fractional quarter of section No. nine, in township No. 8, north of range No. 8, east, containing twenty-three $\frac{93}{100}$ acres, at the rate of one dollar and twenty-five cents per acre, amounting to twenty-nine dollars and ninety-one and one-quarter cents, for which the said John L. Bogardus has made payment in full as required by law.

Now therefore be it known, that, on presentation of this certificate to the Commissioner of the General Land Office, the said John L. Bogardus shall be entitled to receive a patent for the lot above described, subject, however, to the right of any and all persons claiming under the Act of Congress of 3d March, 1823, entitled "An Act to confirm claims to lots in the village of Peoria, in the State of Illinois."

SAMUEL LEECH,
Register.

General Land Office, December 2, 1847.

I, Richard M. Young, Commissioner of the General Land Office, do hereby certify, that the annexed is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] RICHARD M. YOUNG,
Commissioner of the General Land Office.

The above was all the material evidence given in the case. Each party saved the right on the argument of the cause to object to any of said evidence on the ground of the incompetency or effect

of the evidence, but not to make merely formal objections, such as proof of authenticity of papers offered.

It was further agreed that the property in controversy was worth more than two thousand dollars; whereupon the court instructed the jury to bring in a verdict for the plaintiffs, as by law they were entitled to recover on the above facts. To all of which opinions of the court the defendant excepted, and prayed this, his bill of exceptions, be sealed, signed, and made of record, which is accordingly done, &c.

NATHL. POPE. [SEAL.]

I, William Pope, Clerk of the Circuit Court of the United States for the District of Illinois, do hereby certify that the foregoing transcript is a true and correct copy of all the proceedings in the foregoing entitled causes as the same appears from the files of my said office, and of record.

In testimony whereof I have hereto affixed the seal of said Circuit Court, and subscribed my name this seventeenth day of December, in the year of our Lord one thousand eight hundred and forty-nine, and of our independence the 74th year.

[SEAL.] WM. POPE,
Clerk.

[A]

Plat of the new village of Peoria, and of such of the out lots and field lots in the neighborhood thereof as are connected with said new village in one continuous survey and description of the out boundaries of the said town, and continued connection of out lots and field lots situate in sections 9 and 16, township 8, north of the base line range 8, east of the 4th principal meridian.

Description.—Begin at the upper end of the southeastern edge of First Street on the N. W. bank of Lake Peoria; thence N. 46½ W. one hundred feet to the eastern corner of unclaimed to A; 420 feet 10 inches to the north corner of said unclaimed lot A at the northeast end of the S. E. edge of Second Street, 486 feet 10 inches to the northeast end of the N. W. edge of Second Street; thence S. 43½ W. with the N. W. edge of Second Street 256 feet 8 inches to the intersection with the N. E. edge of street A; thence N. 46½ W. with the N. E. edge of street A 320 feet 10 inches to the N. W. end of the N. E. edge of said street A; thence south 43½° W. 66 feet the north corner of lot 66 at the N. W. end of the S. W. edge of said street A 108 feet 9⅓ inches the west corner of lot No. 66, and north corner of unclaimed lot C, 322 feet 8 inches, the west corner of unclaimed lot C, and the north corner of lot No. 12; 408 feet 2⅔ inches, the west corner of lot No. 12, and the northwest end of the N. E. edge of street B; 474 feet 2⅔ inches the N. W. end of the S. W. edge of street B, and the north corner of lot No. 8; 709 feet 6 inches the north corner of lot No. 15; 795 feet and ⅔ of an

inch to the west corner of lot No. 8, which is also the west corner of lot No. 15, and east corner of lot No. 61, and north corner of lot No. 28; thence N. 46½° W. with the N. E. boundary of lot 61, 15 chains, 40 links to the north corner of lot No. 61; thence with the N. W. boundary of lot No. 61, S. 43½° west 5 chains and 52¼ links to the west corner of lot No. 61; thence with the S. W. boundary of lot No. 61, S. 46½° E. 4 chains and 94 links to the north corner of lot No. 51, at the intersection of the N. W. boundary thereof, with the S. W. boundary of lot No. 61; thence with the N. W. boundary of lot No. 51. S. 43½ W. 4 chains and 88 links to the west corner of lot No. 51; thence with the S. W. boundary of lot No. 51, S. 46½° E. 6 chains and 10 links to the north corner of lot No. 40, at the intersection of the northwest boundary thereof, with the S. W. boundary of lot No. 51; thence with the N. W. boundary of lot No. 40, S. 43½° W. 3 chains and 23⅓ links to the west corner of lot No. 40; thence with the S. W. boundary of lot No. 40, S. 46½° E. 4 chains and 34 links to the N. W. end of the N. E. edge of street E, on the S. W. boundary of lot No. 40; thence S. 43½° W. 66 feet to the N. W. end of the S. W. edge of street E, and the north corner of unclaimed lot E, 322 feet 8 inches to the east corner of lot No. 31 at the intersection of the N. E. boundary thereof, with the N. W. boundary of unclaimed lot E; thence with the N. E. boundary of lot No. 31 N. 46½° W. 13 chains and 16 links to the north corner of lot No. 31; thence with the N. W. boundary of lot No. 31, S. 43½° W. 3 chains and 88 links to the west corner of lot No. 31 at the intersection of the N. W. boundary thereof, with the N. E. boundary of lot No. 37; thence with the N. E. boundary of lot No. 37 N. 46½° W. 5 chains and 5½ links to the northeast corner of lot No. 37; thence with the N. W. boundary of lot No. 37 S. 43½° W. 7 chains and 66 links to the west corner of lot No. 37; thence with the S. W. boundary of lot No. 37 S. 46½° E. 6 chains and 67½ links to the north corner of lot No. 67 at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 37; thence with the N. W. boundary of lot No. 67 S. 43½° W. 6 chains to the west corner of lot No. 67; thence with the S. W. boundary of lot No. 67, S. 46½° E. 6 chains and thirty-eight links to the south corner of lot No. 67 on the N. W. boundary of lot No. 64; thence south 43½° W. 1 chain and 66 links the west corner of lot No. 64 and north corner of lot No. 20, 7 chains and 61 links, the west corner of lot No. 20 and north corner of lot No. 48, 11 chains and 86 links to the west corner of lot No. 48; thence with the S. W. boundary of lot No. 48; south 46½° E. 6 chains and 88 links, the point of intersection of the S. W. boundary of lot No. 48, with the section line between sections 9 and 16, township 8, north range 8, east of the 4th principal meridian, which point is 13 chains and 93 links N. 89½° W. of the corner of fractional sections 9 and 16 on the lake, 8 chains to the south corner of lot No. 48; thence with the S. E. boundary of lot No. 48, N. 43¼°

E. 1 chain and six links, the point of intersection of the southeast boundary of lot No. 48 with the section line between sections 9 and 16, township 8, north range 8, east of the 4th principal meridian, which point is 12 chains and 38 links north, 89½ west of the corner to fractional sections 9 and 16 on the lake; 4 chains and 25 links to the east corner of lot No. 48, on the S. W. boundary of lot No. 20; thence with the S. W. boundary of lot No. 20 S. 46½° E. 2 chains to the south corner of lot No. 20; thence N. 43½° E. 5 chains and 95 links, the east corner of lot No. 20, and south corner of lot No. 64, 13 chains and 61 links the east corner of lot No. 64 and south corner of lot No. 43, 21 chains and 27 links to the east corner of lot No. 43, and south corner of lot No. 34, at the southwest end of the northwest edge of Second Street; thence south 46½° E. 66 feet, the S. W. end of the S. E. edge of Second Street, and west corner of lot No. 33, 386 feet 10 inches, the south corner of lot No. 33; 491 feet 1⅓ inches to the lower end of the S. E. edge of First Street on the N. W. bank of Lake Peoria; thence along the N. W. bank of Lake Peoria the following courses and distances: N. 38° E. 176 links; thence N. 42° E. 432 links; thence N. 17¾ E. 150 links; thence N. 78° E. 72 links; thence N. 47½ E. 417 links; thence N. 37° E. 188 links; thence N. 44¾° E. 2448 links to the place of beginning.

Then for connection with the public surveys, run from said place of beginning along the N. W. bank of Lake Peoria the following courses and distances. N. 44¾, E. 1081 links; thence N. 50¾, E. 1300 links to the point of intersection of the section line between sections 9 and 10, with the N. W. bank of Lake Peoria, which point is 2406 links S. 0° 30′, W. of the corner to sections 3, 4, 9 & 10, township 8, N. range 8, E. of the 4th principal meridian. Also from the lower end of the S. E. edge of First street, the following courses and distances along the bank of the lake were taken for connection:—S. 51¾, W. 198 links; thence S. 39°, W. 819 links; thence S. 41¼°, W. 216 links; thence S. 49½°, W. 287 links; thence south 85°, W. 116 links to the point of intersection of the section line between sections 9 and 16, township 8, north range 8, east of the 4th principal meridian, which point is 2510 links south 89° 30′, E. of the corner to sections 8, 9, 16, and 17 of said township.

Surveyed on the several days designated in the following separate descriptions of the lots by Joseph C. Brown, Deputy Surveyor under instructions from Daniel Dunklin, Surveyor of the Public Lands in the States of Illinois and Missouri, bearing date the 11th April, 1837.

Examined and approved this first day of September, 1840.

(Signed) WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

Surveyor's Office, St. Louis, September 21, 1842.

The foregoing plat and description of the new village of Peoria, in the State of Illinois, are correctly copied from the record thereof in book of "Peoria Surveys, Illinois," in this office.

SILAS REED,
Surveyor of the Public Lands in the States of Illinois and Missouri.

(For plat marked B, see original, page 107.)

A plat of a part of the French village of Peoria, situate on the S. E. fractional quarter of section 9, S. 8, N. R. 8, E., represented on the above plat by the black lines. The red lines on the above plat represent a part of Bigelow and Underhill's addition to Peoria, as located on the above-described quarter section. The courses and distances marked with black are for the French lots. The course and distances marked in red are for the lots in Bigelow and Underhill's addition to Peoria. Surveyed November 10, 1848.

G. C. M'FADDEN,
C. S. P. C.

Scale 50 feet to an inch. Variation 7½°.

Know all men by these presents, that we, Charles Ballanee and John Reynolds, are held and firmly bound unto Robert Forsyth, Lucien Dumain, and Anthony R. Bovis, in the full and just sum of one thousand dollars, to be paid to the said Forsyth, Dumain, and Bovis, or to their certain attorneys, executors, administrators or assigns: to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents, sealed with our seals, and dated this sixteenth day of August, in the year of our Lord one thousand eight hundred and forty-nine.

Whereas, lately at a Circuit Court of the United States for the District of Illinois, in a suit depending in said Circuit Court, wherein said Forsyth, Dumain and Bovis were plaintiffs, and said Ballanee was defendant, judgment was rendered against the said Ballanee, and the said Ballanee having obtained a writ of error, and filed a copy thereof in the clerk's office of the said Circuit Court to reverse the judgment in the aforesaid suit, and a citation directed to the said Forsyth, Dumain and Bovis, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington, the first Monday of December next—

Now the condition of the above obligation is such, that if the said Charles Ballanee shall prosecute said writ to effect and answer all damages and costs, if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

CHARLES BALLANEE. [SEAL.]
JOHN REYNOLDS. [SEAL.]

I approve the security to the within bond.

NATHL. POPE,
District Judge Illinois District.

Filed Sept. 27, 1849.

I, William Pope, Clerk of the Circuit Court of the United States for the District of Illinois, do hereby certify that the within is a true and correct copy of the original bond on file in my said office.

In testimony whereof I have hereto affixed the seal of said court, and subscribed my name this 20th day of February, A. D. 1850, and of our Independence the 74th year.

[SEAL.] WM. POPE,
Clerk.

IN THE SUPREME COURT OF THE UNITED STATES,
December Term, A. D. 1850.

Error to Illinois.

CHARLES BALLANEE
vs.
ROBERT FORSYTH,
LUCIEN DUMAIN,
ANTOINE R. BOVIS. } In Ejectment.

The said Ballanee comes and says, that in the record and proceedings aforesaid, there is manifest error in this, to wit:

1st. The court erred in refusing to dismiss said suit of Forsyth et al. *vs.* Stinson A. Goudy (consolidated herein), on motion of said defendant's attorneys, on the ground that no bond for costs had been filed in time.

2d. The court erred in refusing to dismiss said suit of Forsyth et al. *vs.* Albert F. Lincoln (consolidated herein), on motion of said defendant's attorneys, on the ground that no bond for costs had been filed in time.

3d. The court erred in refusing to quash said plaintiffs' depositions on motion of defendant's attorneys.

4th. The court erred in refusing to exclude from the jury all evidence offered by the plaintiffs to sustain their title to said lot forty-seven on motion of defendant.

5th. The court erred in refusing to exclude from the jury all evidence offered by the plaintiffs to sustain their title to said lot sixty-five on motion of defendant.

6th. The court erred in instructing the jury to bring in a verdict for plaintiffs, and that they were entitled to recover.

7th. The judgment ought to have been for defendant and not for plaintiffs.

8th. The court erred in refusing defendant a new trial.